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United States versus Francis Tarmony for obstructing officers

Section 2, Pages 31 - 60

2nd District. Funds for digitization provided by Mr. Steve Peckel in memory of William Chalfant.

Date: date of crime September 25, 1858

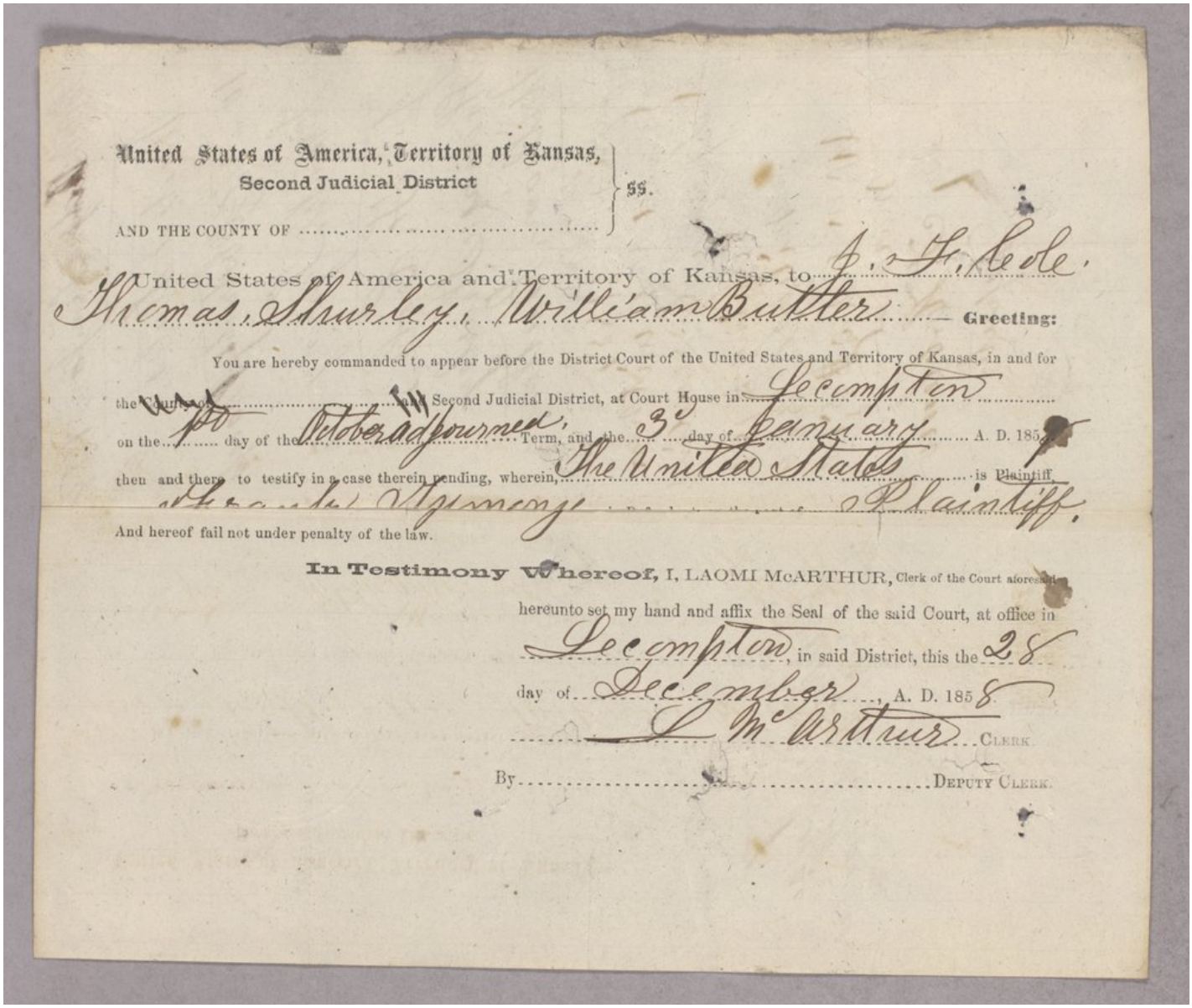
Callnumber: Kansas Territory Criminal Case Files, Box 16, Folder 14

KSHS Identifier: DaRT ID: 445737

Item Identifier: 445737

www.kansasmemory.org/item/445737

United States versus Francis Tarmony for obstructing officers



United States of America, Territory of Kansas,
Second Judicial District } ss.
AND THE COUNTY OF .....

United States of America and Territory of Kansas, to A. J. Lecle,
Thomas Shurley, William Butler — Greeting:

You are hereby commanded to appear before the District Court of the United States and Territory of Kansas, in and for the County of ..... and Second Judicial District, at Court House in Lecompton on the 4th day of the October adjourned Term, and the 3d day of January A. D. 185..., then and there to testify in a case therein pending, wherein, The United States is Plaintiff, and Francis Tarmony is Defendant.

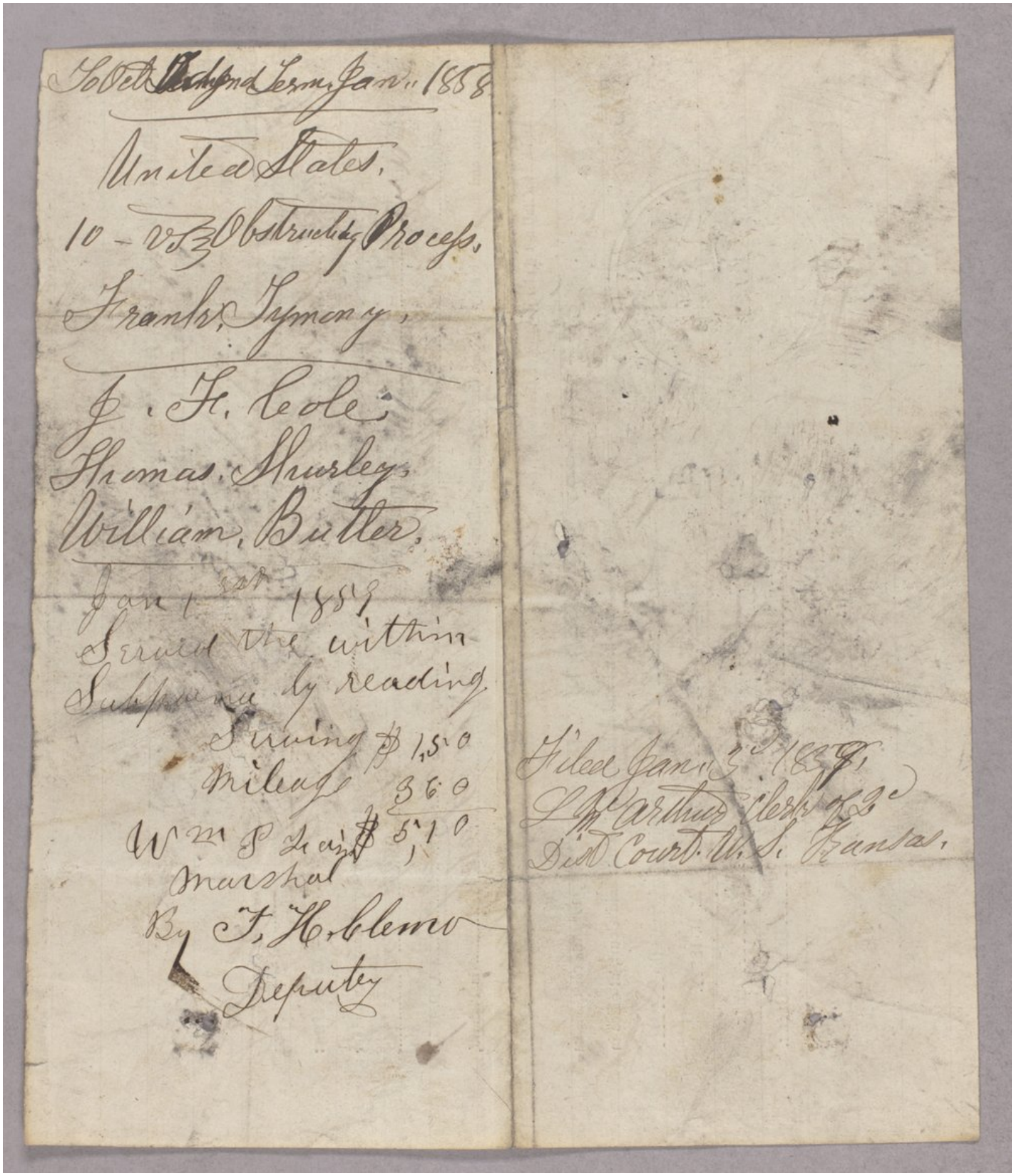
And hereof fail not under penalty of the law.

In Testimony Whereof, I, LAOMI McARTHUR, Clerk of the Court aforesaid, hereunto set my hand and affix the Seal of the said Court, at office in Lecompton, in said District, this the 28 day of December, A. D. 185 8

L McArthur Clerk

By ..... Deputy Clerk.

United States versus Francis Tarmony for obstructing officers


To Dist Court 2nd Term Jan 1858

United States.

10 - vs - Obstructing Process.

Francis Tarmony.

J. F. Cole

Thomas Shurley

William Butler

Jan 1st 1858

Served the within Subpoena by reading

Serving $1,50

Mileage 3,60

Wm S Zeigler $5,10

Marshal

By T. Hoblemo

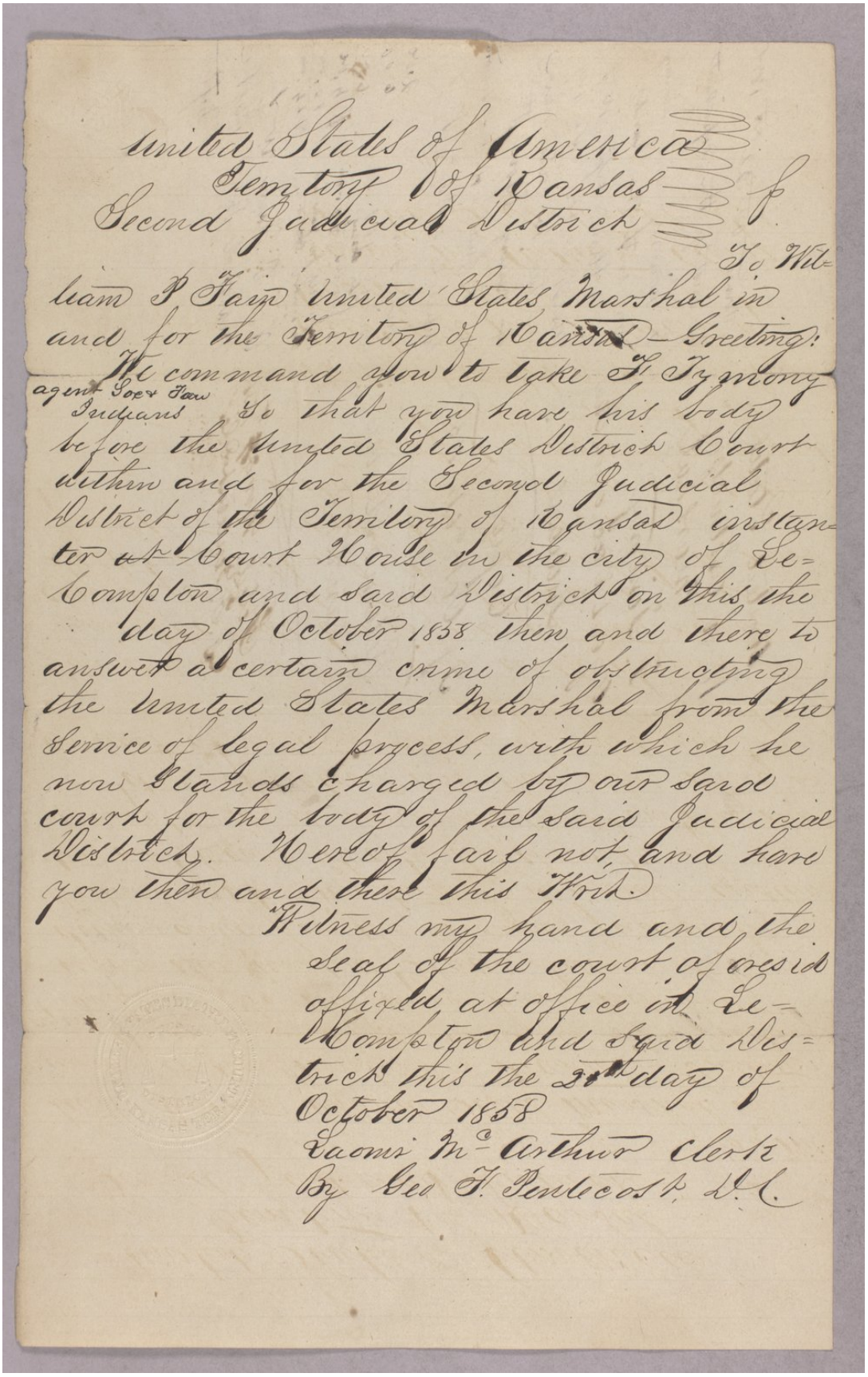
Deputy

Filed Jan 2nd 1858

L. W. Arthur Clerk &c

Dist Court U. S. Kansas.

United States versus Francis Tarmony for obstructing officers



United States of America
Territory of Kansas
Second Judicial District } ss.

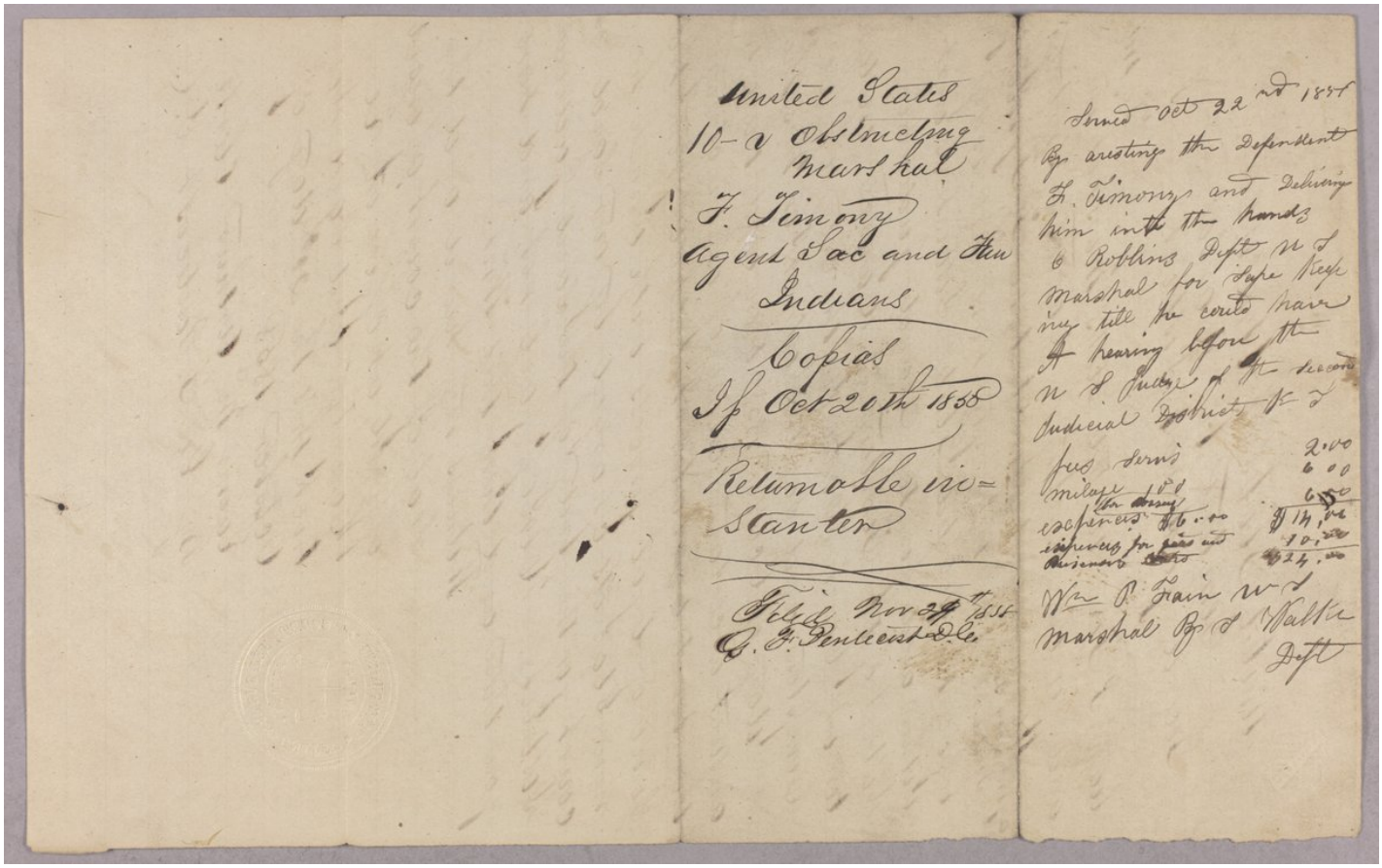
To William P. Fain United States Marshal in and for the Territory of Kansas—Greeting:

We command you to take F. Tarmony agent Sac & Fox Indians so that you have his body before the United States District Court within and for the Second Judicial District of the Territory of Kansas instanter at Court House in the city of Lecompton and said District on this the day of October 1858 then and there to answer a certain crime of obstructing the United States Marshal from the Service of legal process, with which he now stands charged by our said court for the body of the said Judicial District. Herein fail not, and have you then and there this Writ.

Witness my hand and the seal of the court aforesaid affixed at office in Lecompton this said District this the 20th day of October 1858

Naomi McArthur Clerk
By Geo T. Pentecost D.C.

United States versus Francis Tarmony for obstructing officers



United States
10 v Obstructing
Marshal
F. Tarmony
Agent Sac and Fox
Indians
Copias
If Oct 20th 1858
Returnable in=
Stanter

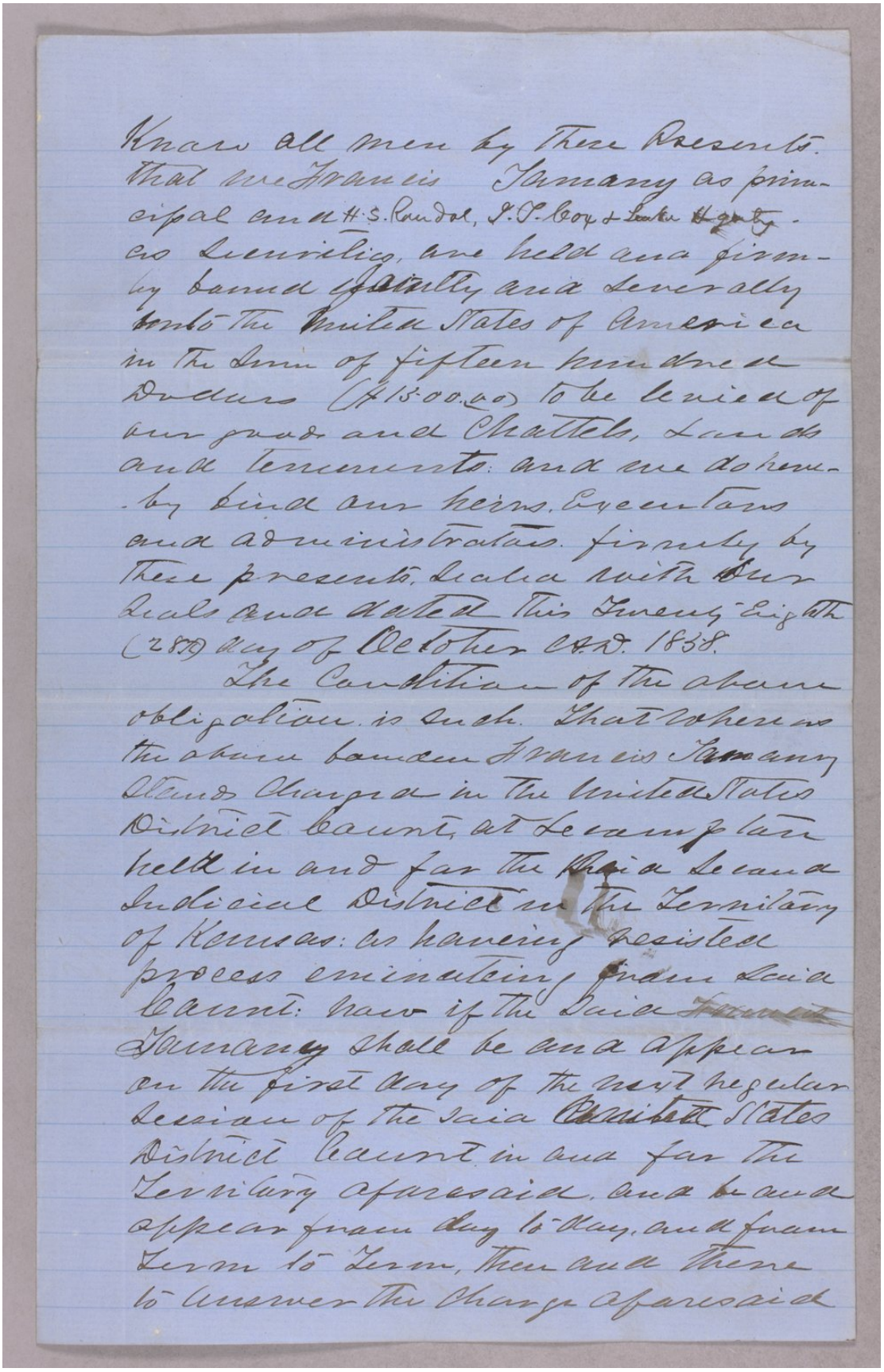
Filed Nov 2d 1858
C. F. Pentecost D.C.

Served Oct 22 nd 1858
By arresting the Defendant
F. Tarmony and delivering
him into the hands
of Robbins Deputy U S
Marshal for safe keep
ing till he could have
a hearing before the
U S Judge of the second
Judicial District U S

fees Servs	2.00
mileage	6.00
10 days	6.00
expenses $6.00	$14.00
witnesses for case and	10.00
prisoners costs	$24.00

Wm P. Fain U S
Marshal By J Walker
Dept

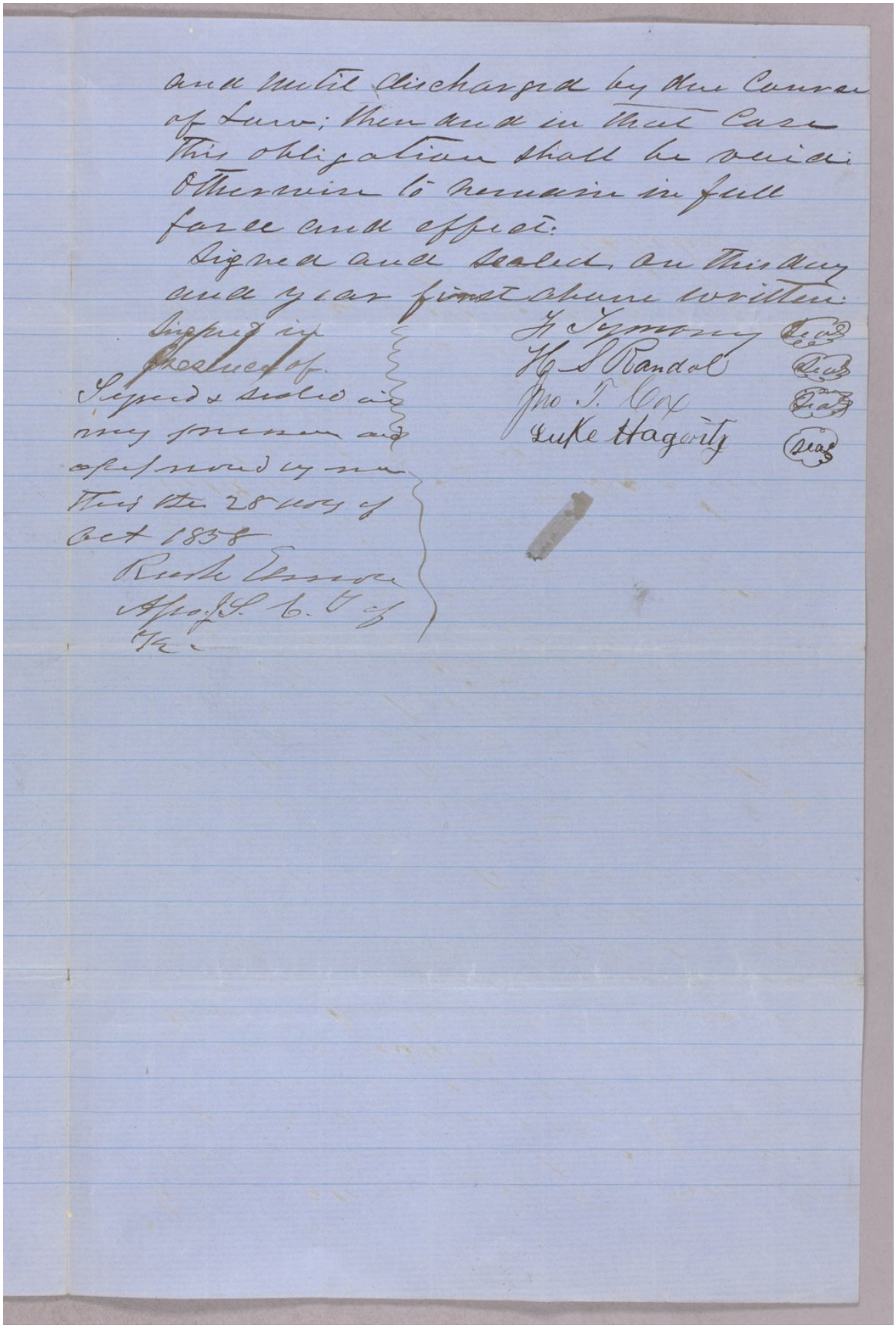
United States versus Francis Tarmony for obstructing officers



Know all men by These Presents.
That we Francis Tarmany as prin-
cipal and H.S. Rondal, J.S. Boyd & Lake Hagerty
as Securities, are held and firm-
ly bound Jointly and Severally
unto The United States of America
in The Sum of fifteen hundred
Dollars ($1500.00) to be levied of
our goods and Chattels, Lands
and Tenements. and we do bind-
by bind our heirs, Executors
and administrators. firmly by
These presents. Sealed with our
Seals and dated This Twenty Eighth
(28th) day of October A.D. 1858.

The Condition of the above
obligation is such. That whereas
the above bounden Francis Tarmany
stands Charged in the United States
District Court at Leavenworth
held in and for the Said Leavenworth
Judicial District in the Territory
of Kansas: as having resisted
process emanating from Said
Court: Now if the Said Francis
Tarmany shall be and appear
on the first day of the next regular
Session of the Said United States
District Court in and for the
Territory aforesaid. and be and
appear from day to day, and from
Term to Term, then and there
to answer the Charge aforesaid

United States versus Francis Tarmony for obstructing officers



and until discharged by due Course of Law; then and in that Case this obligation shall be void. Otherwise to remain in full force and effect.

Signed and Sealed, on this day and year first above written.

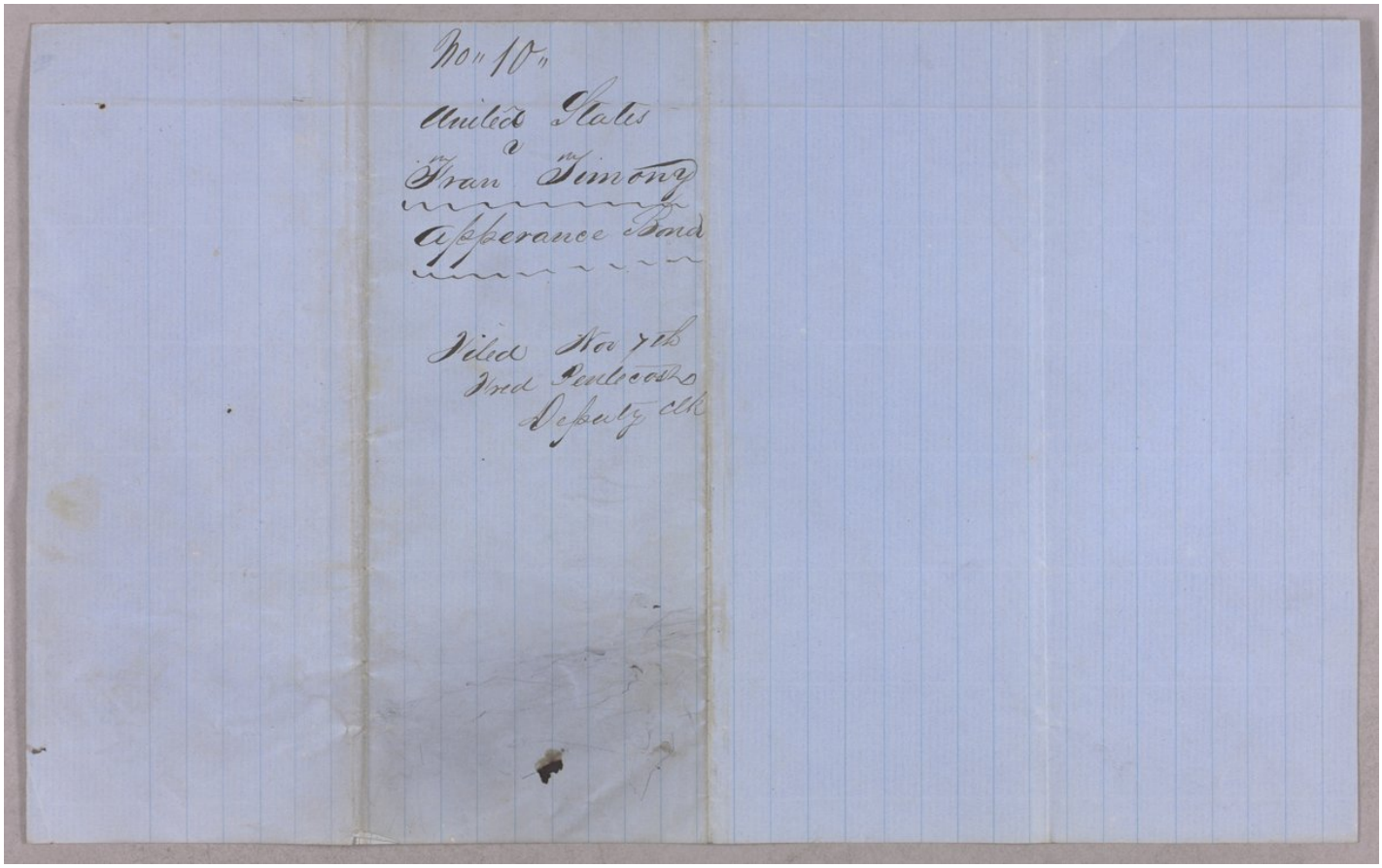
Signed in Presence of.

Signed & Sealed in my presence and acknowledged by me this the 28 day of Oct 1858

Rush Elmore
Asst. J.S. U.S. of Ks.

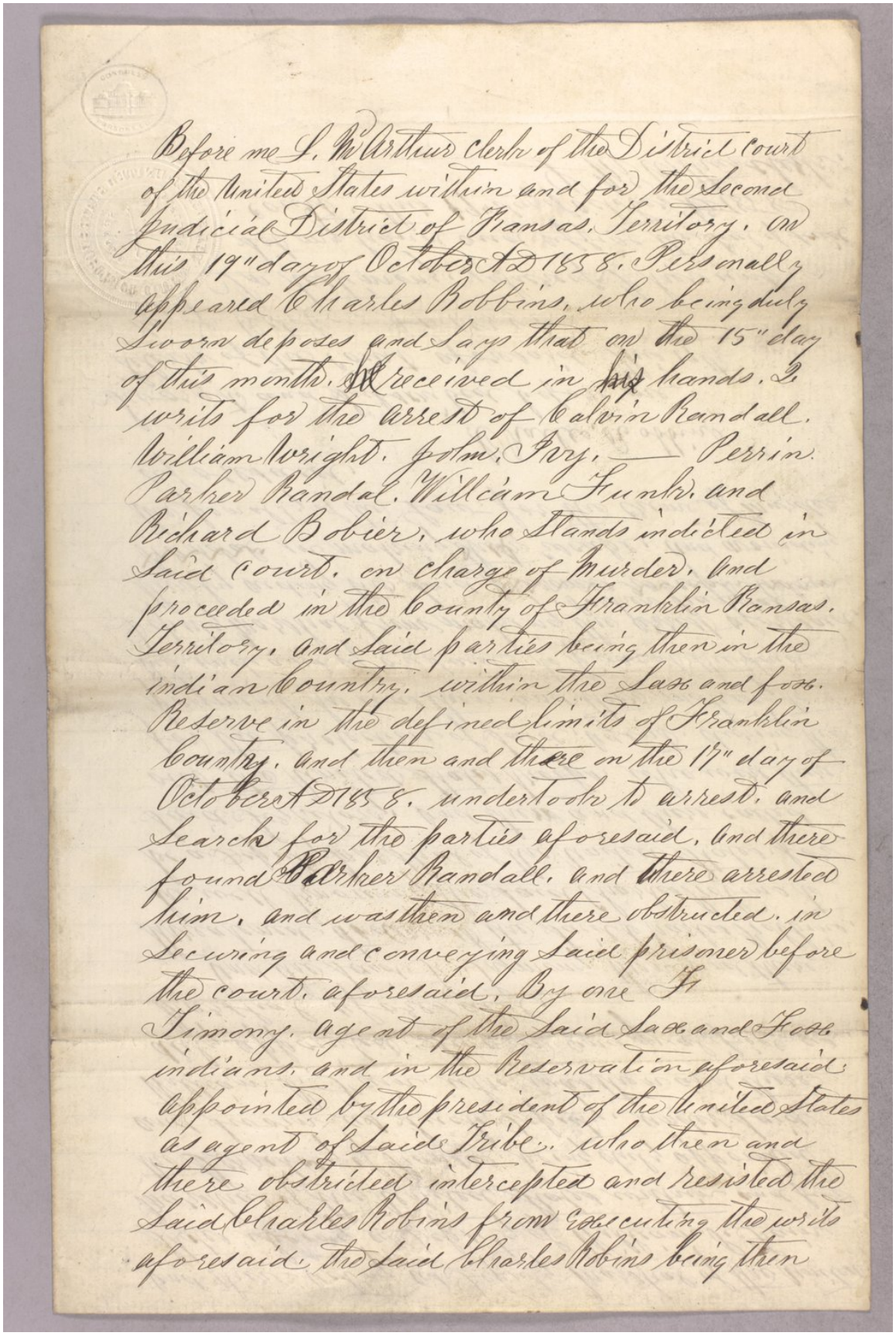
F Tarmony (Seal)
H. S. Randal (Seal)
Jno. T. Cox (Seal)
Luke Hagerty (Seal)

United States versus Francis Tarmony for obstructing officers


No "10"
United States
vs
Fran Tarmony
Appearance Bond

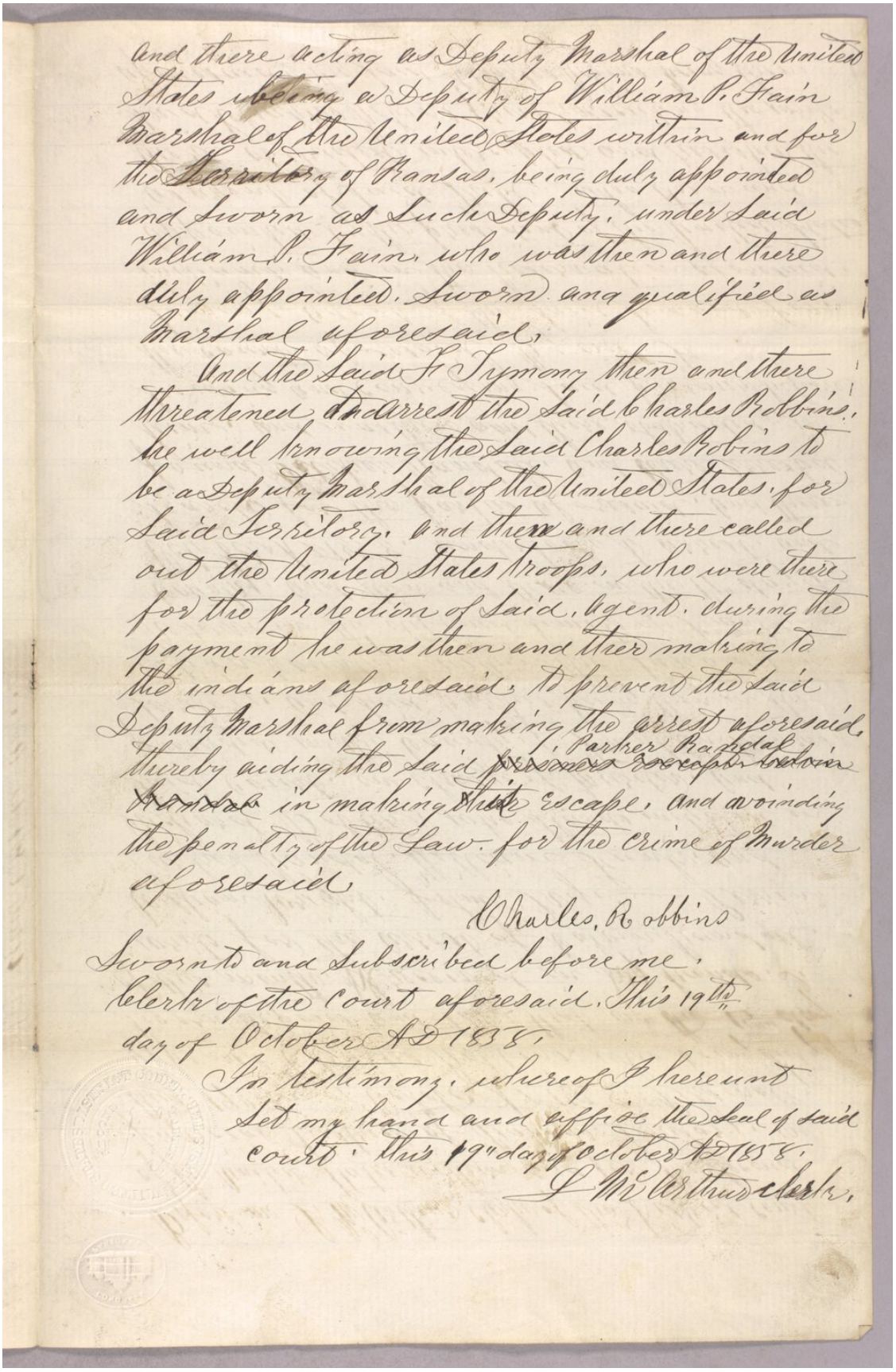
Filed Nov 7th
1860 Pentecost
Deputy Clk

United States versus Francis Tarmony for obstructing officers



Before me S. W. Arthur Clerk of the District Court of the United States within and for the Second Judicial District of Kansas Territory, on this 19th day of October A.D. 1858. Personally appeared Charles Robbins, who being duly sworn deposes and says that on the 15th day of this month. he received in his hands. 2 writs for the arrest of Calvin Randall. William Wright. John. Fry. — Perrin. Parker Randal. William Funk. and Richard Bobier. who stands indicted in said court. on charge of Murder. and proceeded in the County of Franklin Kansas. Territory. and said parties being then in the indian country. within the Sacs and Fox. Reserve in the defined limits of Franklin County. and then and there on the 17th day of October A.D. 1858. undertook to arrest. and search for the parties aforesaid. and there found Parker Randall. and there arrested him. and was then and there obstructed. in securing and conveying said prisoner before the court. aforesaid. By one F Timony. agent of the said Sac and Fox. indians. and in the Reservation aforesaid appointed by the president of the United States as agent of said Tribe. who then and there obstructed intercepted and resisted the said Charles Robins from executing the writs aforesaid the said Charles Robins being then

United States versus Francis Tarmony for obstructing officers



and there acting as Deputy Marshal of the United States under & Deputy of William P. Fain Marshal of the United States within and for the Territory of Kansas, being duly appointed and sworn as such Deputy, under said William P. Fain, who was then and there duly appointed, sworn and qualified as Marshal aforesaid,

And the said F Tarmony then and there threatened & arrest the said Charles Robbins, he well knowing the said Charles Robbins to be a Deputy Marshal of the United States, for said Territory, and then & there called out the United States troops, who were there for the protection of said Agent, during the payment he was then and there making to the Indians aforesaid, to prevent the said Deputy Marshal from making the arrest aforesaid, thereby aiding the said Parker Rachdal ~~prisoners escaped~~ Robbins ~~Marshal~~ in making ~~their~~ escape, and avoiding the penalty of the Law, for the crime of Murder aforesaid

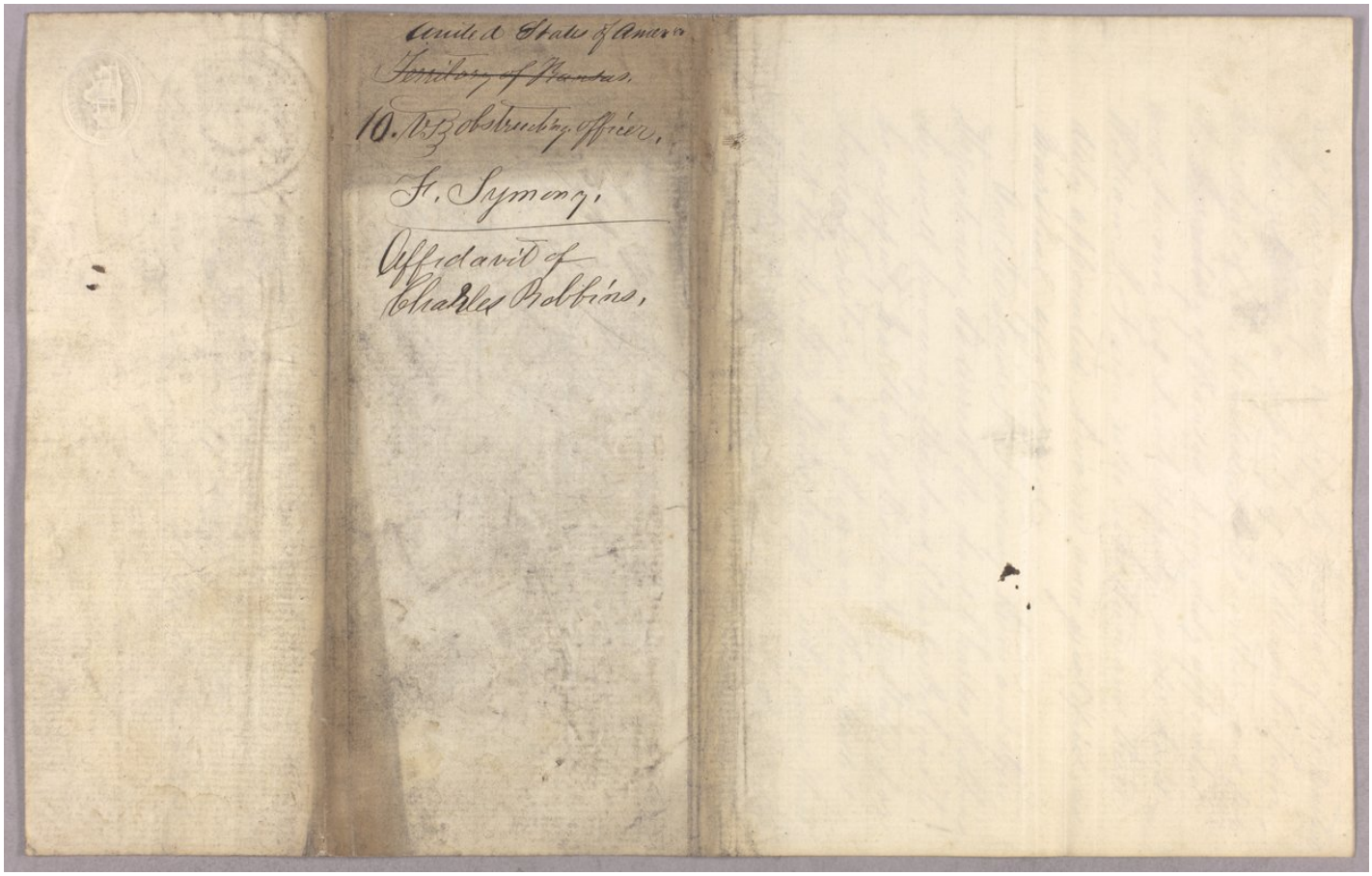
Charles, Robbins

Sworn to and Subscribed before me, Clerk of the Court aforesaid, This 19th day of October A D 1858.

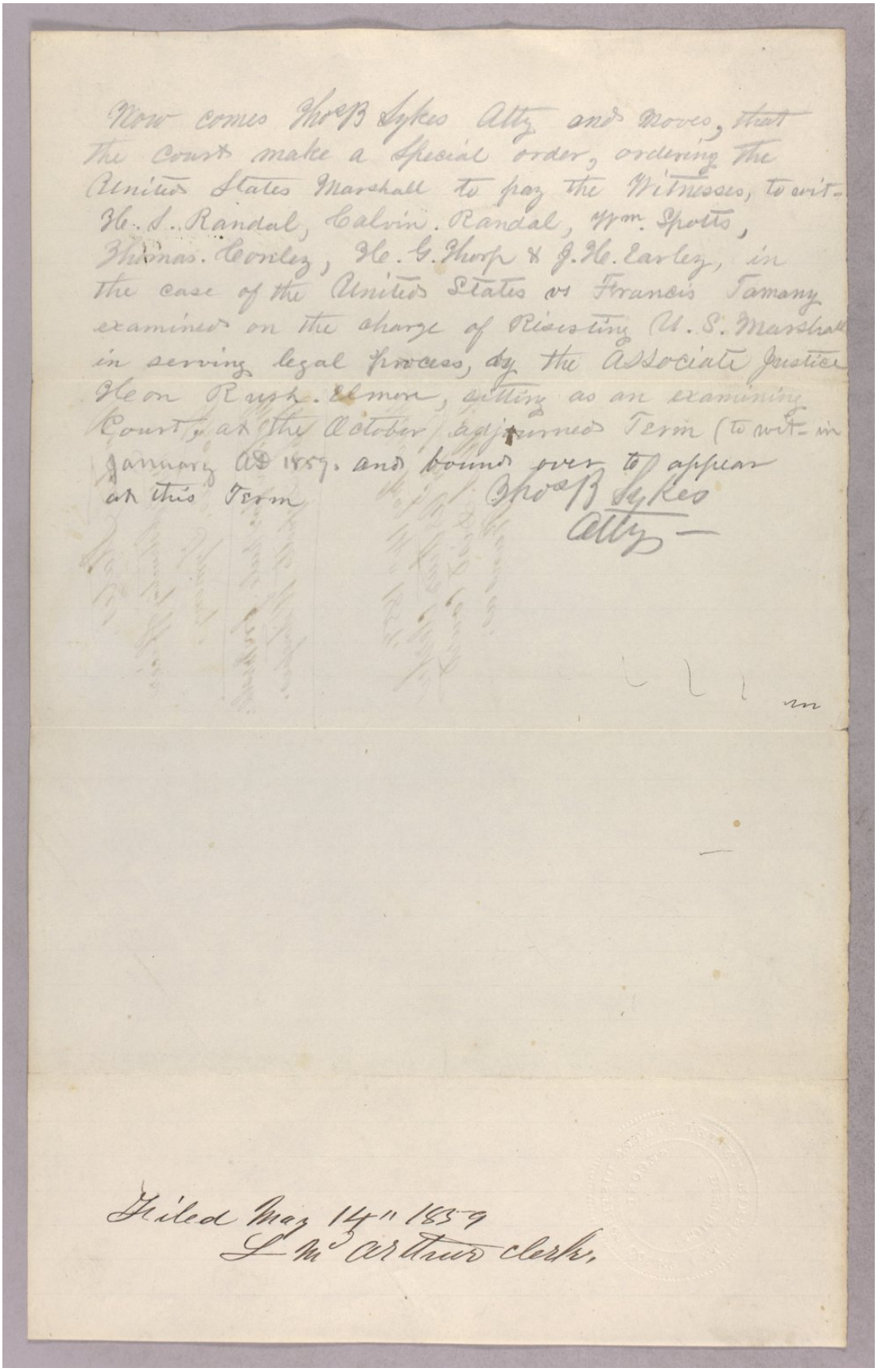
In testimony, whereof I here unto set my hand and affix the Seal of said court, this 19th day of October A D 1858.

J M Arthur Clerk,

United States versus Francis Tarmony for obstructing officers


United States of America
Territory of Kansas,
10. Obstructing Officer,
F. Tarmony,
Affidavit of
Charles Robbins,

United States versus Francis Tarmony for obstructing officers

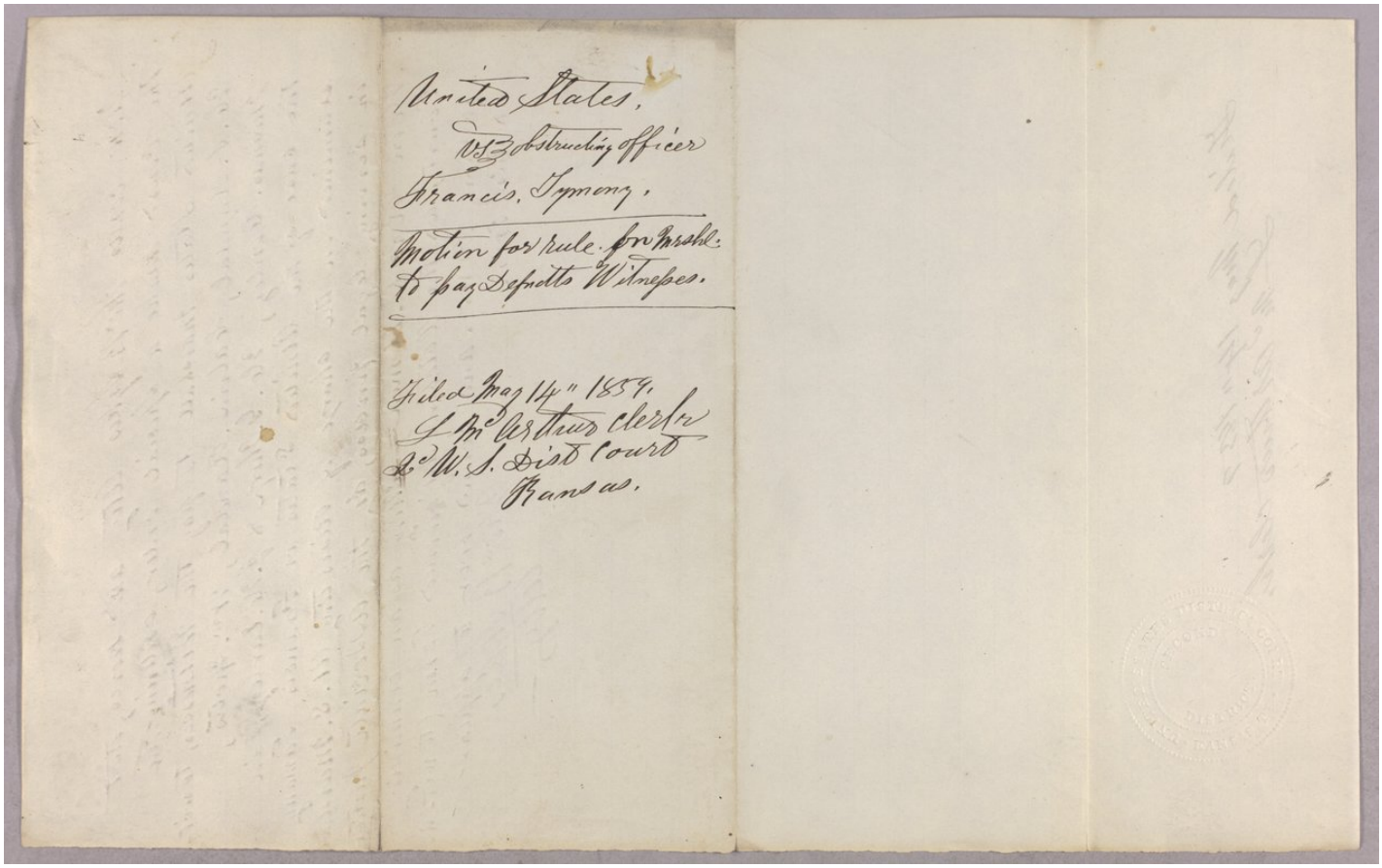


Now comes Thos B Sykes Atty and Moves, that the Court make a Special order, ordering the United States Marshall to paz the Witnesses, to wit- H. S. Randal, Calvin. Randal, Wm. Sparks, Thomas. Conley, H. G. Thorp & J. H. Earley, in the case of the United States vs Francis Tamany examined on the charge of Resisting U. S. Marshal in serving legal process, by the Associate Justice Hon Rush. Elmore, sitting as an examining Court, at the October adjourned Term (to wit- in January AD 1859. and bound over to appear at this Term

Thos B Sykes
Atty

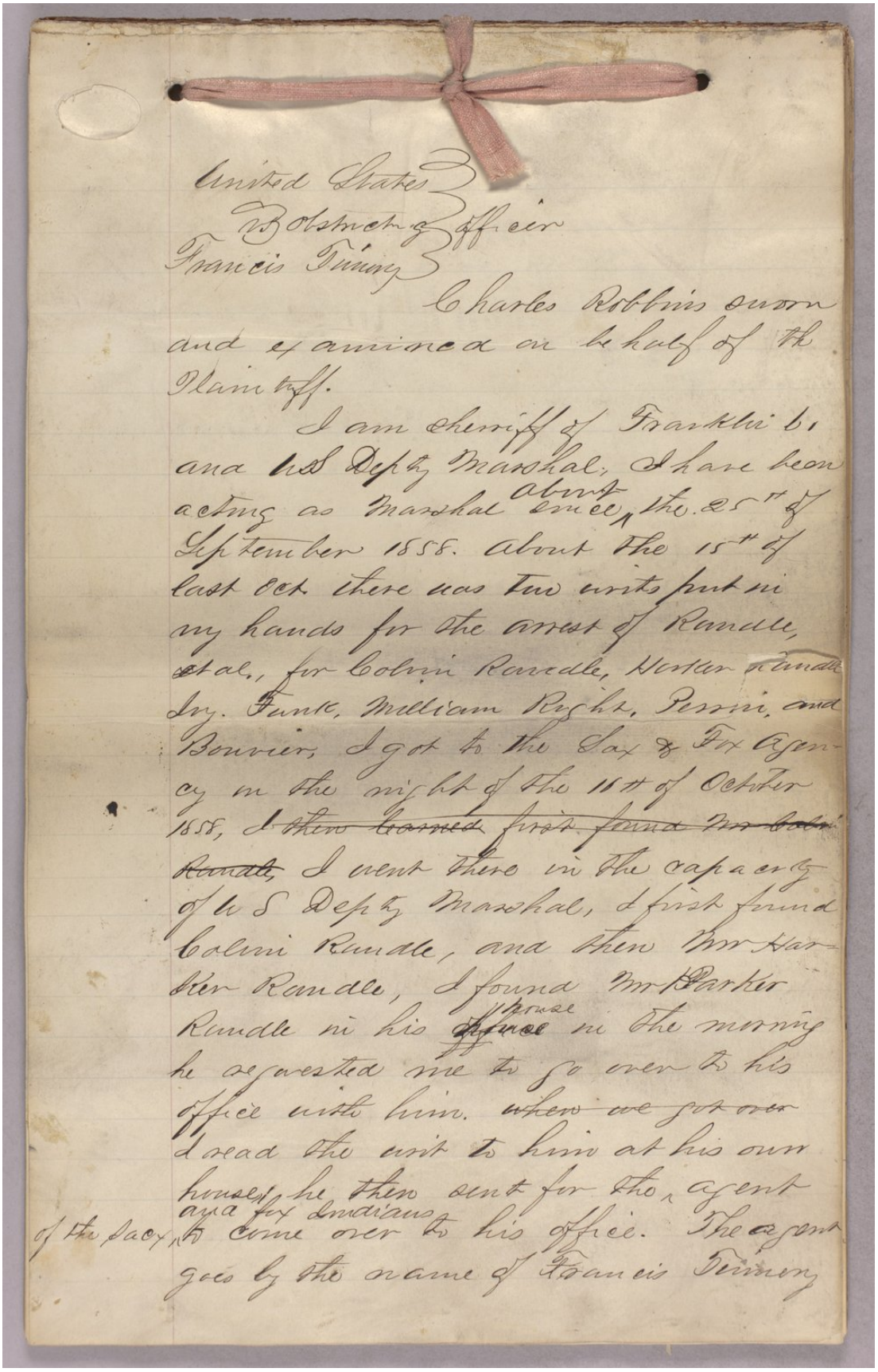
Filed May 14th 1859
L. M. Arthur clerk.

United States versus Francis Tarmony for obstructing officers


United States,
vs
Obstructing officer
Francis Tarmony,
Motion for rule. for Marshl.
to pay Deputy Witnesses.

Filed May 14th 1857.
L McArthur clerk
D.C. U.S. Dist Court
Kansas.

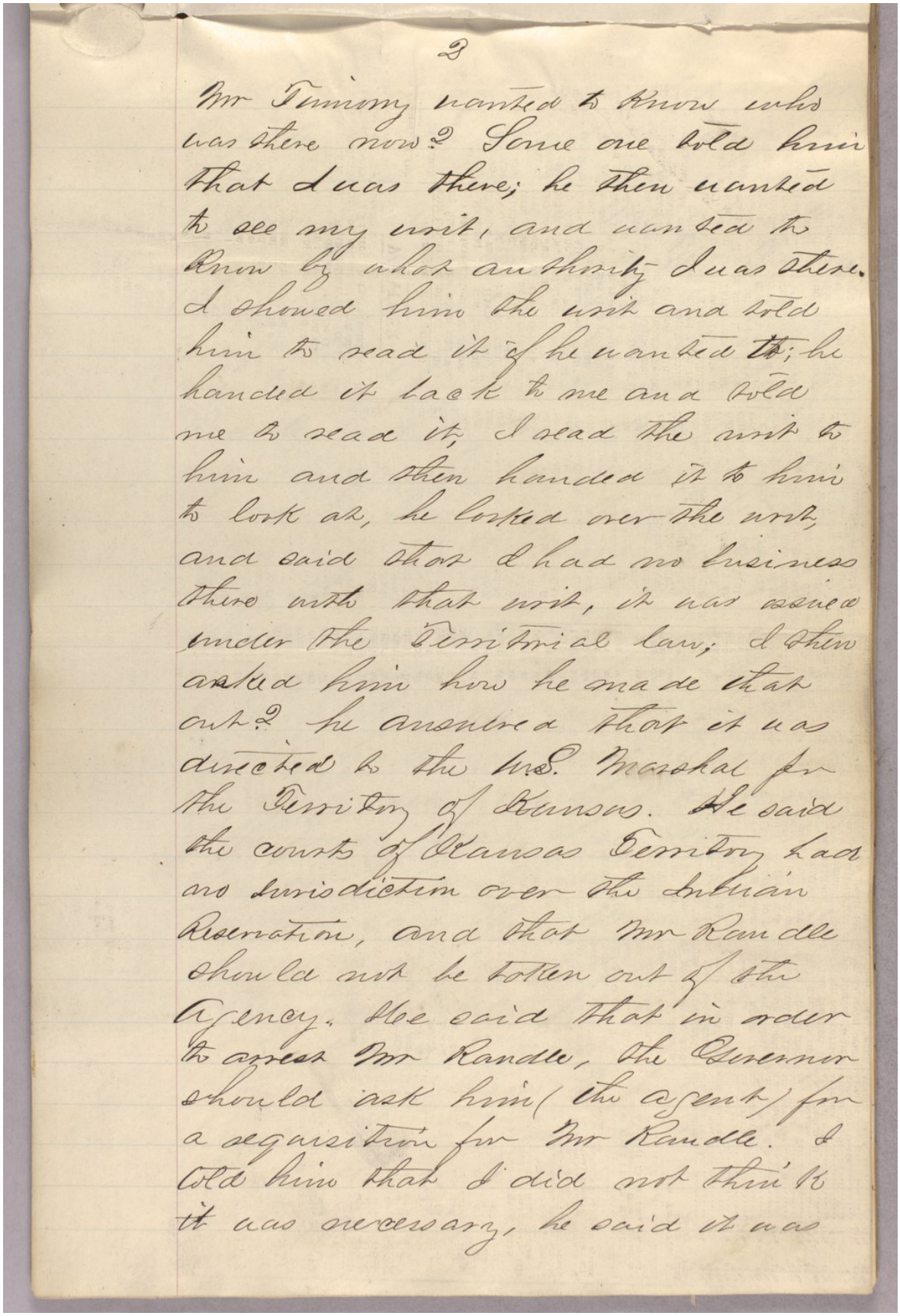
United States versus Francis Tarmony for obstructing officers



United States
vs
Obstructing Officer
Francis Tarmy

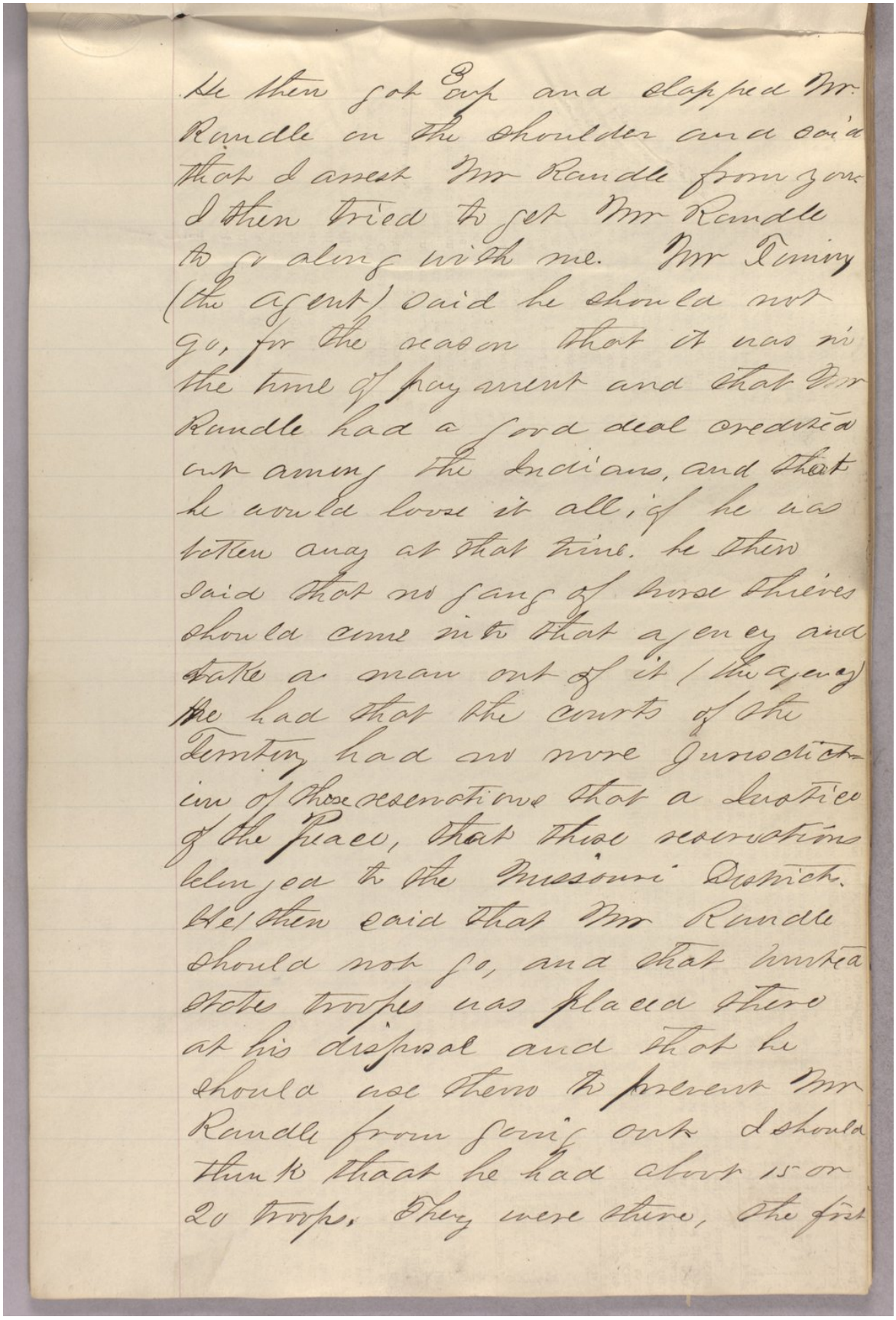
Charles Robbins sworn and examined on behalf of the Plaintiff.

I am sheriff of Franklin Co. and a US Deputy Marshal. I have been acting as Marshal since about the 25th of September 1858. About the 15th of last Oct. there was two writs put in my hands for the arrest of Randle, et al., for Calvin Randle, Porter Randle Ivy. Funk, William Right, Perrin, and Bonnier. I got to the Sac & Fox Agency in the night of the 15th of October 1858, I then learned ~~first found Mr Calvin Randle~~ I went there in the capacity of a US Deputy Marshal, I first found Calvin Randle, and then Mr Porter Randle, I found Mr Porter Randle in his house in the morning he arrested me to go over to his office with him. ~~when we got over~~ I read the writ to him at his own house, he then sent for the agent of the Sac & Fox Indians to come over to his office. The agent goes by the name of Francis Tarmony



2

Mr Timony wanted to know who was there now? Some one told him that I was there; he then wanted to see my writ, and wanted to know by what authority I was there. I showed him the writ and told him to read it if he wanted to; he handed it back to me and told me to read it; I read the writ to him and then handed it to him to look at, he looked over the writ, and said that I had no business there with that writ, it was issued under the Territorial law; I then asked him how he made that out? he answered that it was directed to the U.S. Marshal for the Territory of Kansas. He said the courts of Kansas Territory had no jurisdiction over the Indian Reservation, and that Mr Randle should not be taken out of the Agency. He said that in order to arrest Mr Randle, the Governor should ask him (the agent) for a requisition for Mr Randle. I told him that I did not think it was necessary, he said it was

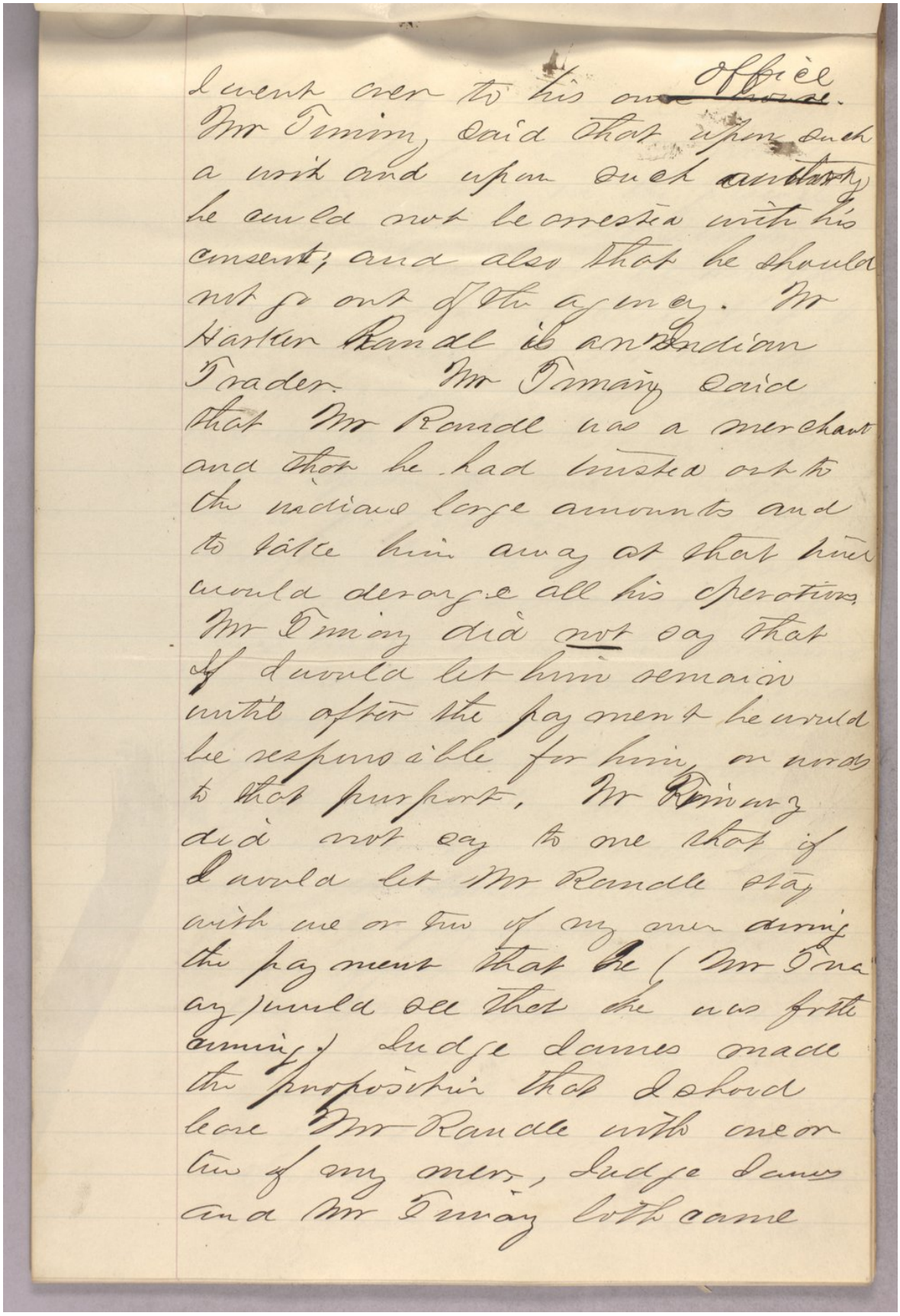


He then got up and clapped Mr. Randle on the shoulder and said that I arest Mr Randle from you. I then tried to get Mr Randle to go along with me. Mr Denny (the agent) said he should not go, for the reason that it was at the time of payment and that Mr Randle had a good deal credited out among the Indians, and that he would loose it all, if he was taken away at that time. He then said that no gang of horse thieves should come into that agency and take a man out of it / the agency he had that the courts of the Territory had no more Jurisdiction in of those reservations that a Justice of the Peace, that those reservations belonged to the Missouri District. He then said that Mr Randle should not go, and that United States troops was placed there at his disposal and that he should use them to prevent Mr Randle from going out. I should think that he had about 15 or 20 troops. They were there, the first

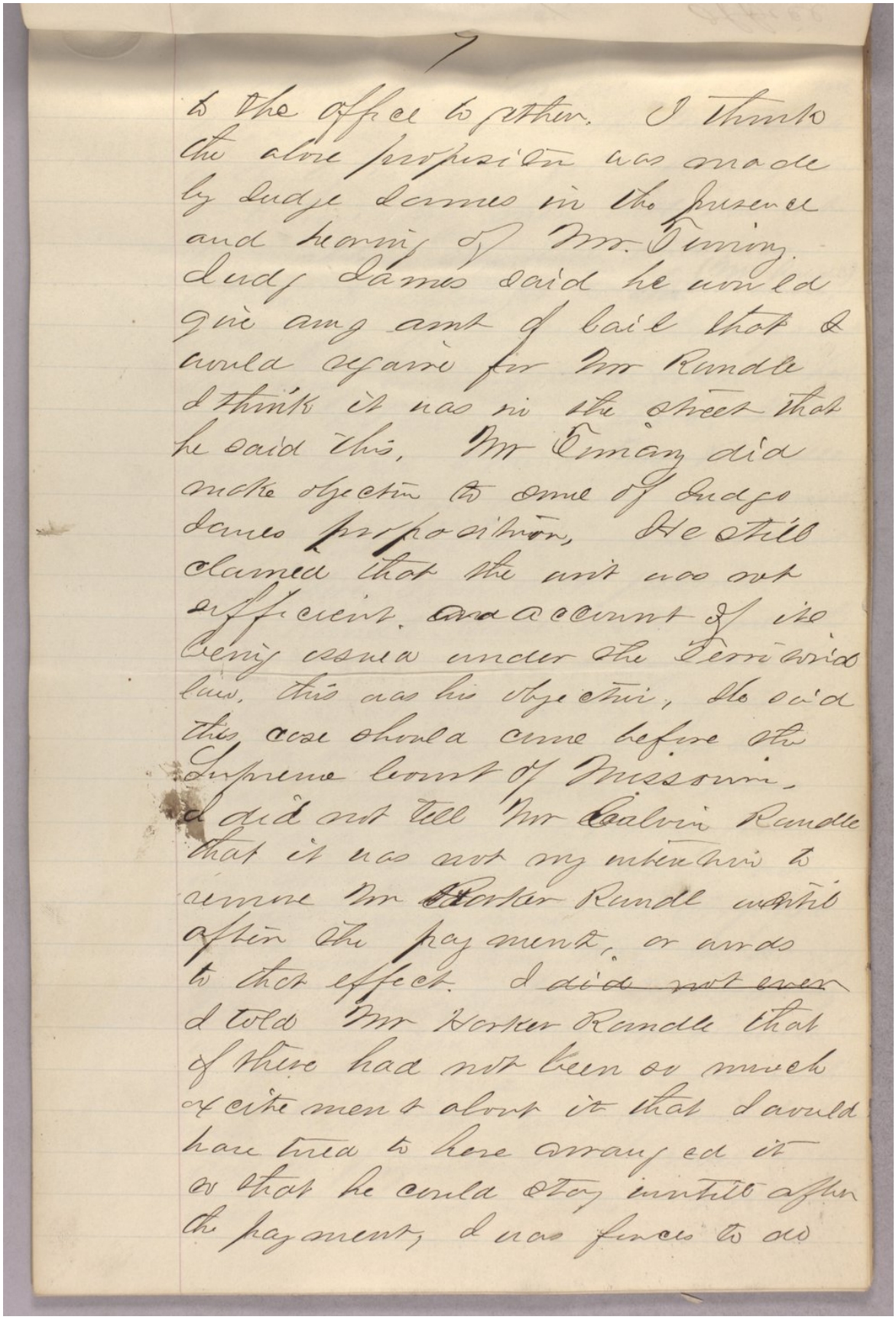
I saw of them Mr Finny brought them over to the office with him, and they were stationed outside, and the Lieutenant was in the office.
I then went to the Lieutenant and made a proposition to him to put Mr Randle under guard, until I could come to Lecompton and get information, he said he did not want to take that responsibility, I then went to Mr Finny and made a proposition, to let me or two of my engineers stay with him till I could come to Lecompton and he finally consented to do it. After considerable objection. Mr Finny threatened to arrest me, I told him that I had no particular objection. I left my men with Mr Randle and after awhile came off. After I came up here ~~and got on~~ I came up here, (to Lecompton) and reported what success I had had, and was advised to file an affidavit of the facts and how Mr Finny arrested. I then the writs over to Mr Caldwell, another Deputy Marshal, and have never seen them since.

Cross

I had two writs when I first went out, all the difference between the two writs one was for the arrest of Mr Shaw and the other for Mr Lehman, I got them from Mr McArthur. When I went to arrest Mr Randle the second time I had neither of the first two. I had two writs the second time for the same parties I arrested Mr Randle on the first writ about 5 miles from the agency I brought him to Lecompton, it was before I arrested Horker Randle at the time I arrested Mr Horker Randle. Mr Calvin Randle in the custody of Mr Webster, Mr McCormick and Thos Shabey Mr Calvin Randle stopped at his brother close by the agency. When Mr Tarmony came he wanted to see my writ. The Agent made no objection because there was no seal. I am pretty positive there was seals on the first writs. I am very positive there was seals on the two first writs. I arrested Mr Horker Randle at his own house at his request

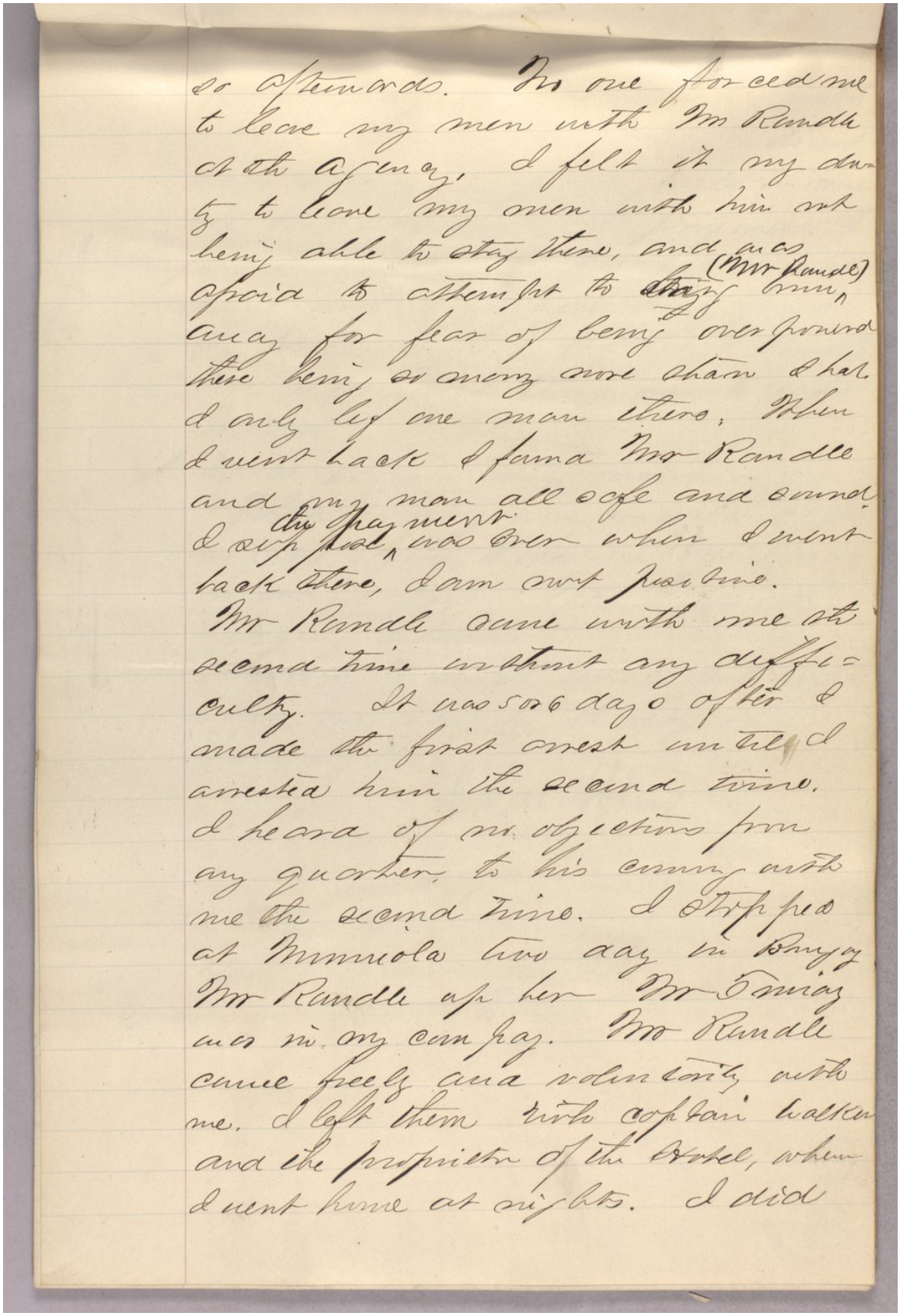


I went over to his office.
Mr Tarmony said that upon such
a writ and upon such authority
he could not be arrested with his
consent; and also that he should
not get out of the agency. Mr
Harlan Randall is an Indian
Trader. Mr Tarmony said
that Mr Randall was a merchant
and that he had trusted out to
the Indians large amounts and
to take him away at that time
would derange all his operations.
Mr Tarmony did not say that
if I would let him remain
until after the payment he would
be responsible for him, or words
to that purport. Mr Tarmony
did not say to me that if
I would let Mr Randall stay
with me or two of my men during
the payment that he (Mr Tarmony
) would see that he was forthcoming. Judge Dawes made
the proposition that I should
leave Mr Randall with one or
two of my men, Judge Dawes
and Mr Tarmony both came



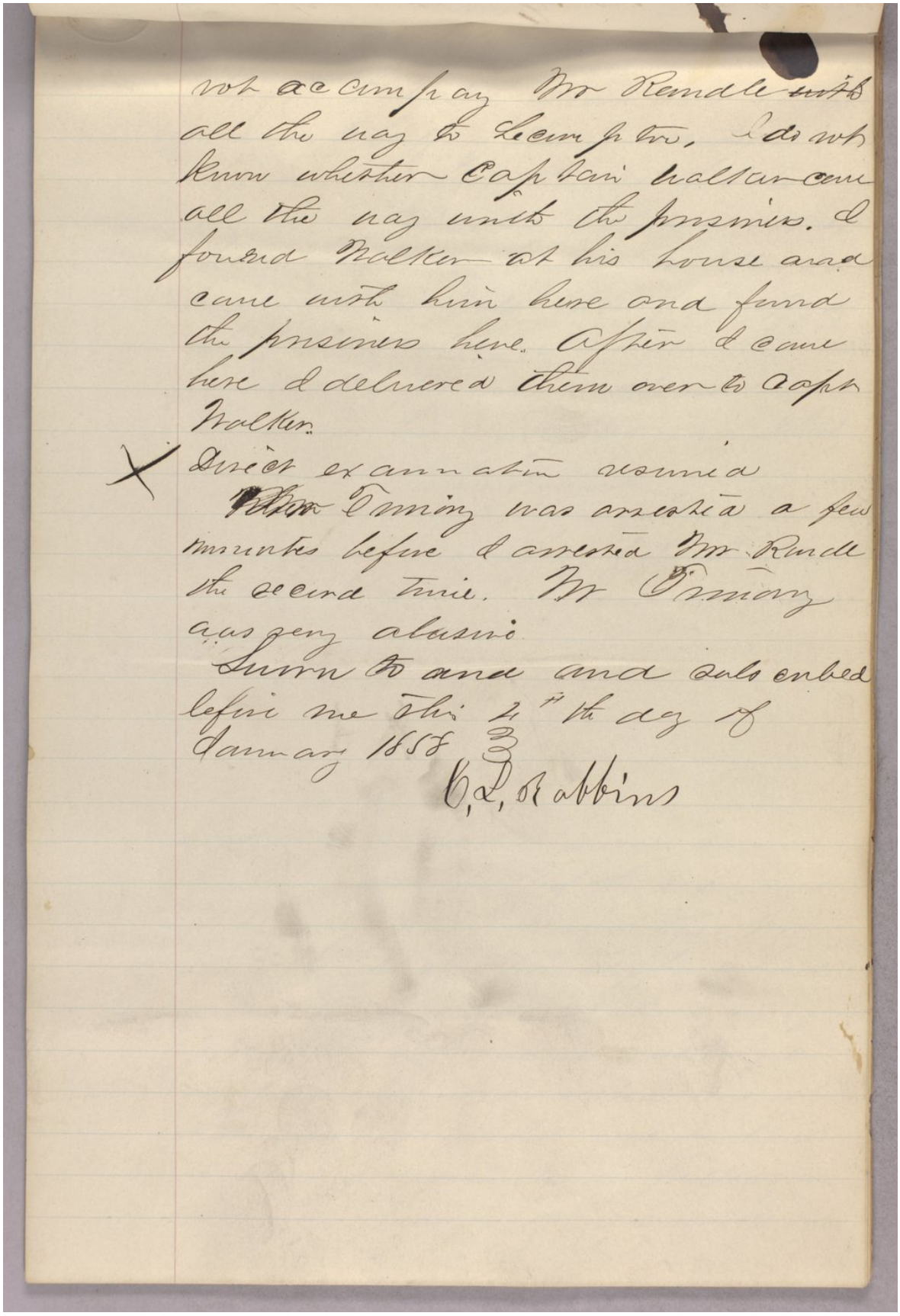
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to the office together. I think the above proposition was made by Judge Lawes in the presence and hearing of Mr Deming. Judge Lawes said he would give any amt of bail that I would appear for Mr Randle I think it was in the street that he said this. Mr Deming did make objection to some of Judge Lawes proposition. He still claimed that the writ was not sufficient. And account of the Deming cases under the Territorial law. This was his objection, He said this case should come before the Supreme Court of Missouri. I did not tell Mr Calvin Randle that it was not my intention to arrest Mr Porter Randle until after the payments, or words to that effect. I did not ever I told Mr Porter Randle that if there had not been so much excitement about it that I would have tried to have arranged it so that he could stay until after the payments, I was force to do



so afterwards. He one forced me to leave my men with Mr Randle at the agency, I felt it my duty to leave my men with him not being able to stay there, and was afraid to attempt to take him, (Mr Randle) away for fear of being overpowered there being so many more than I had only left one man there. When I went back I found Mr Randle and my man all safe and sound. I suppose the payment was over when I went back there, I am not positive.

Mr Randle came with me the second time without any difficulty. It was 5 or 6 days after I made the first arrest until I arrested him the second time. I heard of no objections from any quarter to his coming with me the second time. I stopped at Missoula two days in Mr Randle up here Mr Tarmony was in my company. Mr Randle came freely and voluntarily with me. I left them with Captain Walker and the proprietor of the Hotel, when I went home at night. I did



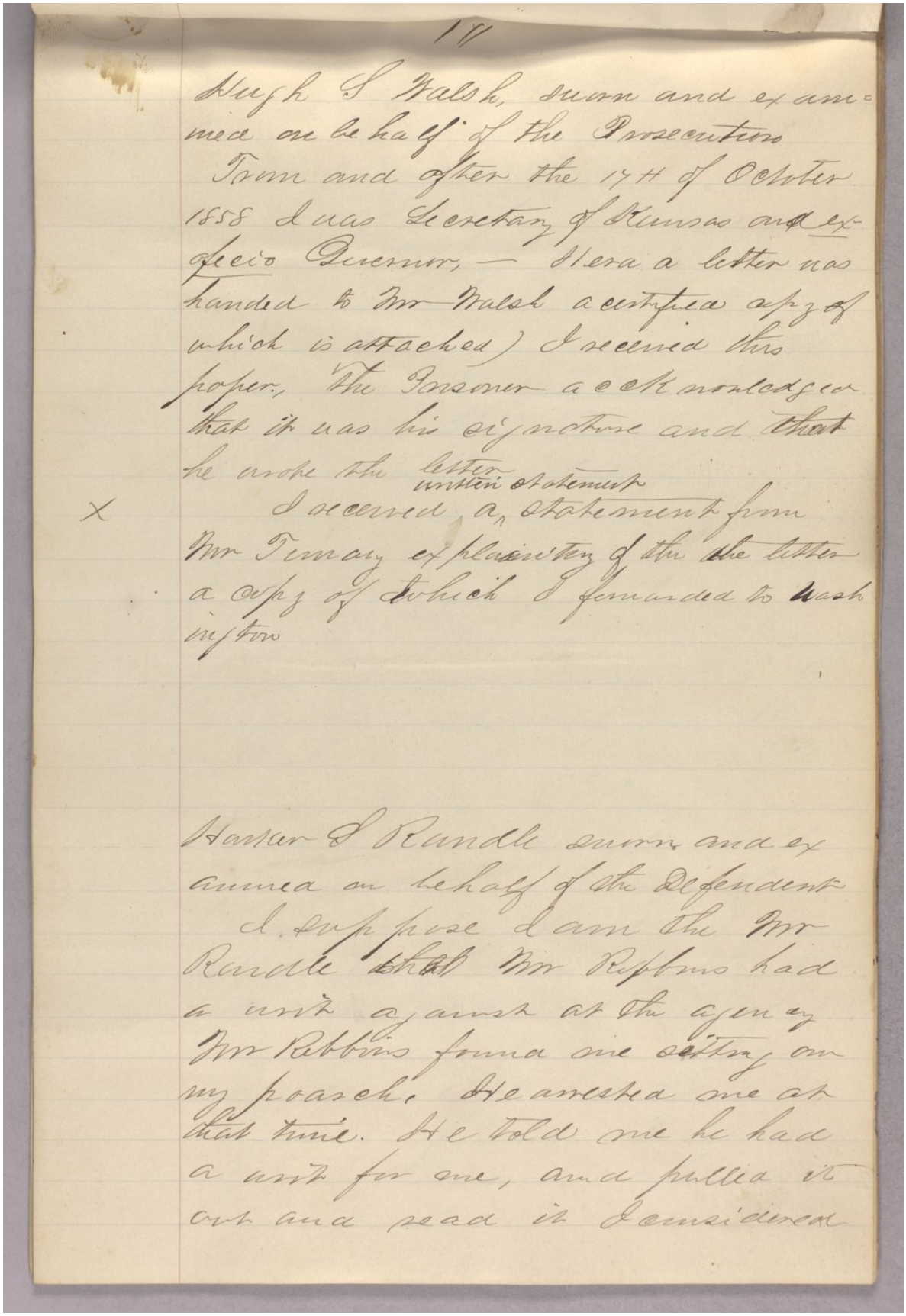
not accompany Mr Randle with all the way to Lecompton. I do not know whether Captain Walker came all the way with the prisoners. I found Walker at his house and came with him here and found the prisoners here. After I came here I delivered them over to Capt. Walker.

X Direct examination resumed

Tarmony was arrested a few minutes before I arrested Mr Randle the second time. Mr Tarmony was very abusive.

Sworn to and and subscribed before me this 4th day of January 1858

C. D. Robbins



14

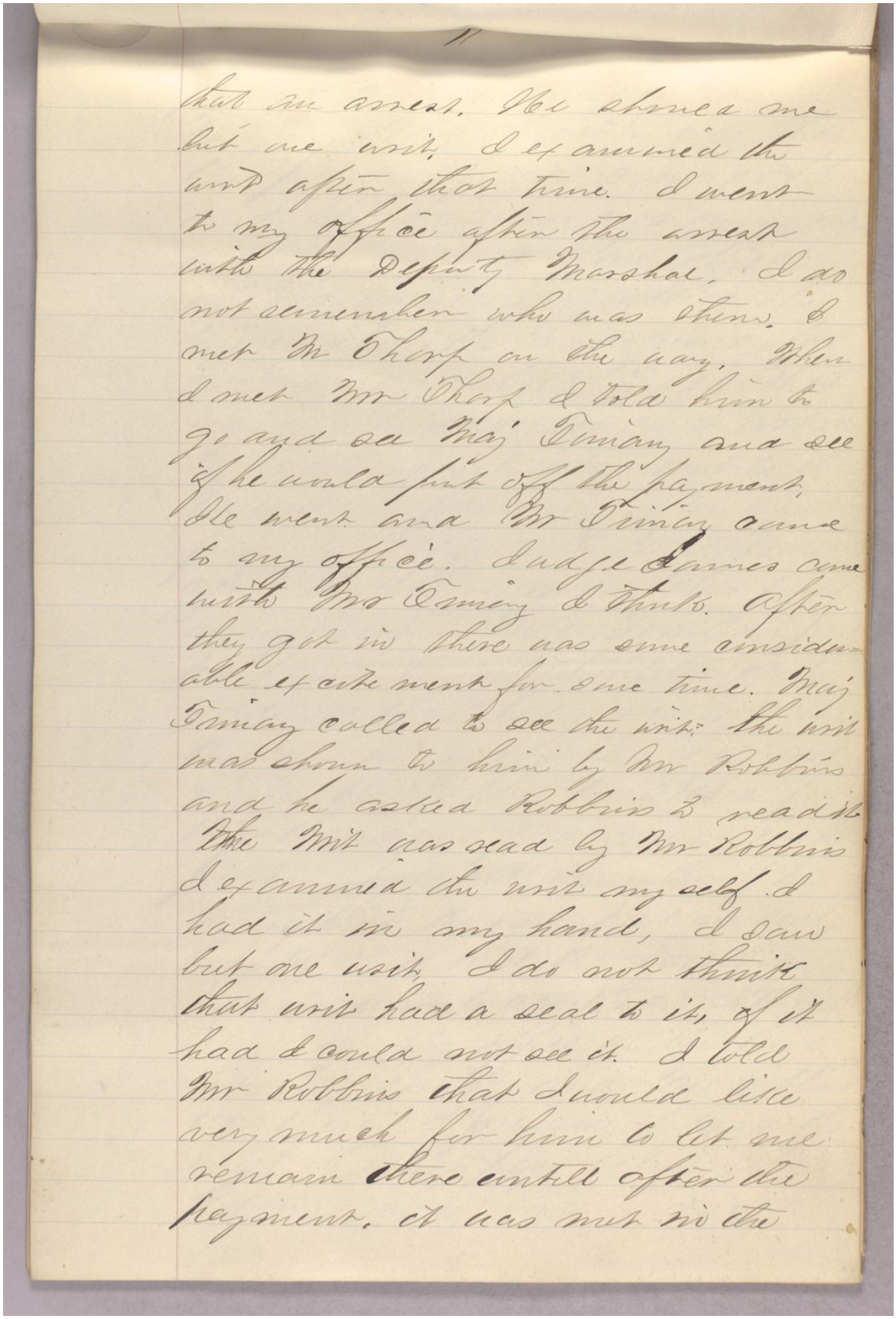
Hugh S Walsh, sworn and examined on behalf of the Prosecution

From and after the 17th of October 1858 I was Secretary of Kansas and ex-officio Governor, — Here a letter was handed to Mr Walsh a certified copy of which is attached) I received this paper. The Prisoner acknowledged that it was his signature and that he wrote the letter written statement

X I received a statement from Mr Tarmony explanatory of the the letter a copy of which I forwarded to Washington

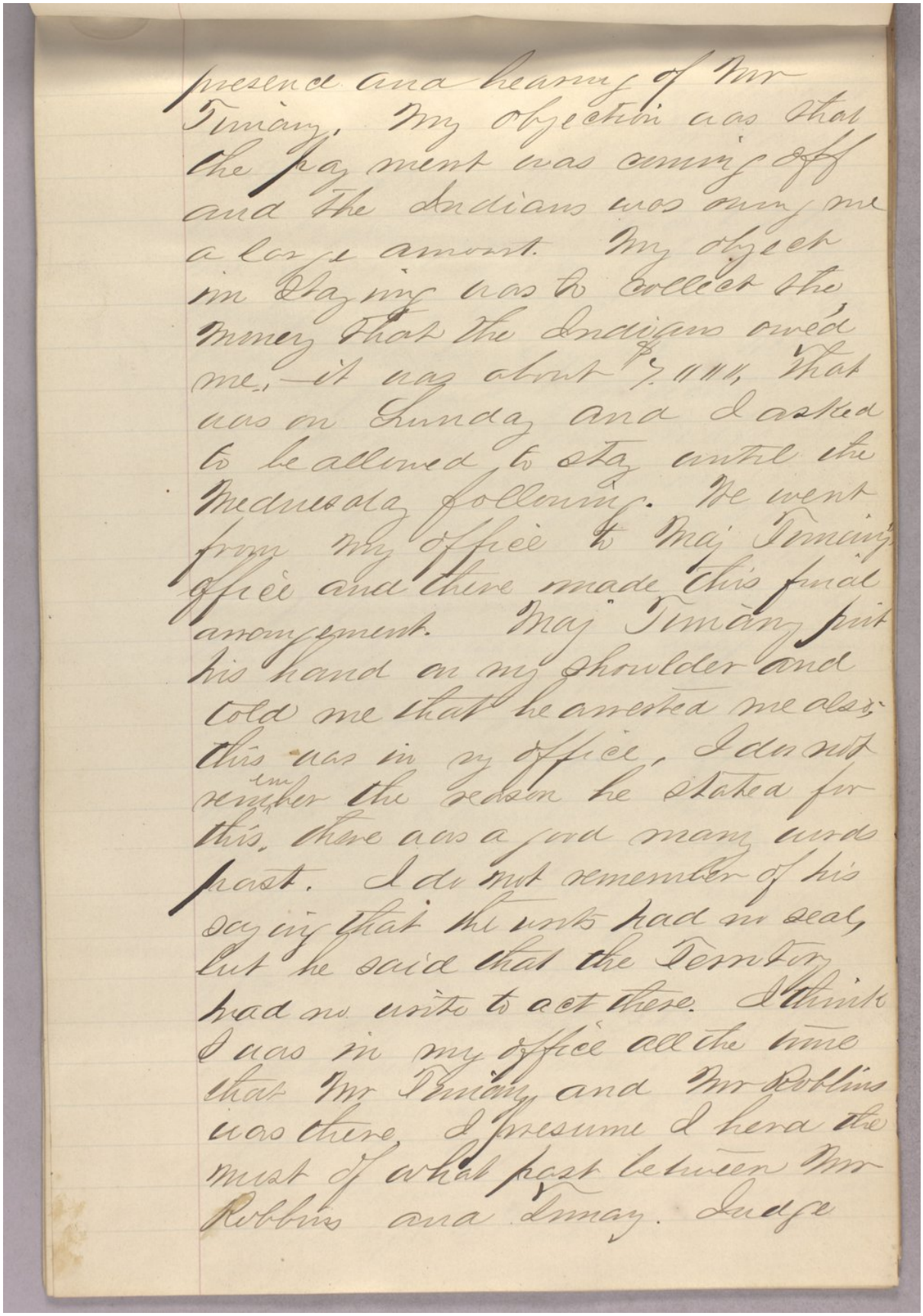
Hasker D Rundle sworn and examined on behalf of the Defendent

I suppose I am the Mr Rundle that Mr Robbins had a writ against at the agency Mr Robbins found me sitting on my porch. He arrested me at that time. He told me he had a writ for me, and pulled it out and read it I considered



11

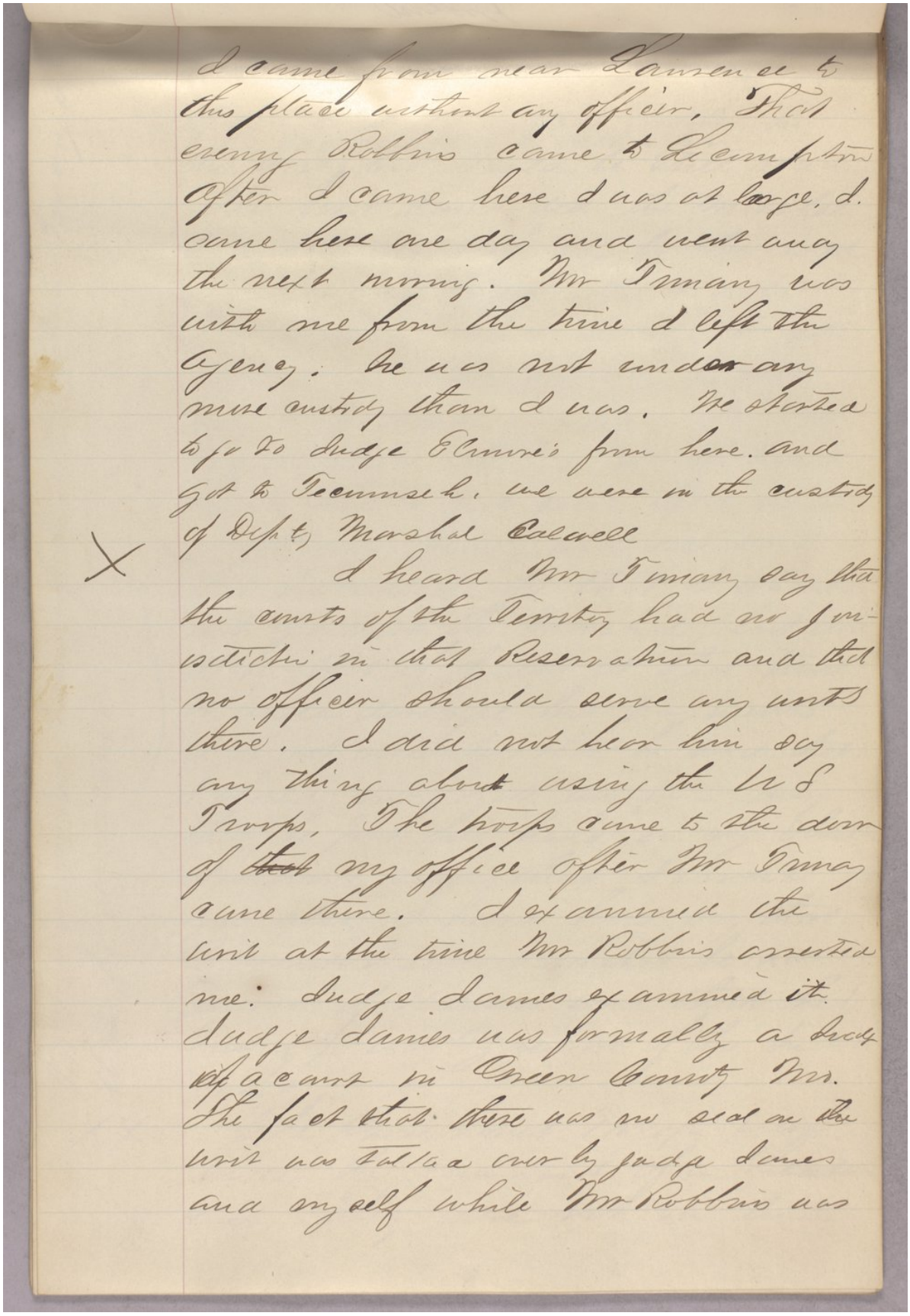
that an arrest. He showed me
but one writ. I examined the
writ after that time. I went
to my office after the arrest
with the Deputy Marshal. I do
not remember who was there. I
met Mr Thorp on the way. When
I met Mr Thorp I told him to
go and see Maj Tinney and see
if he would put off the payment.
He went and Mr Tinney came
to my office. Judge Barnes came
with Mr Tinney I think. After
they got in there was some considera-
ble excitement for some time. Maj
Tinney called to see the writ. The writ
was shown to him by Mr Robbins
and he asked Robbins to read it.
The writ was read by Mr Robbins
I examined the writ myself. I
had it in my hand, I saw
but one writ. I do not think
that writ had a seal to it, if it
had I could not see it. I told
Mr Robbins that I would like
very much for him to let me
remain there until after the
payment. It was not in the



presence and hearing of Mr Tinan. My objection was that the payment was running off and the Indians was owing me a large amount. My object in staying was to collect the money that the Indians owed me. It was about 7 o'clock that was on Sunday and I asked to be allowed to stay until the Medicine Lodge Council. We went from my office to Maj Tinan's office and there made this final arrangement. Maj Tinan put his hand on my shoulder and told me that he arrested me also; this was in my office. I do not remember the reason he stated for this, there was a good many words past. I do not remember of his saying that he had no seal, but he said that the Territory had no writs to act there. I think I was in my office all the time that Mr Tinan and Mr Robbins was there. I presume I heard the most of what past between Mr Robbins and Maj. Judge

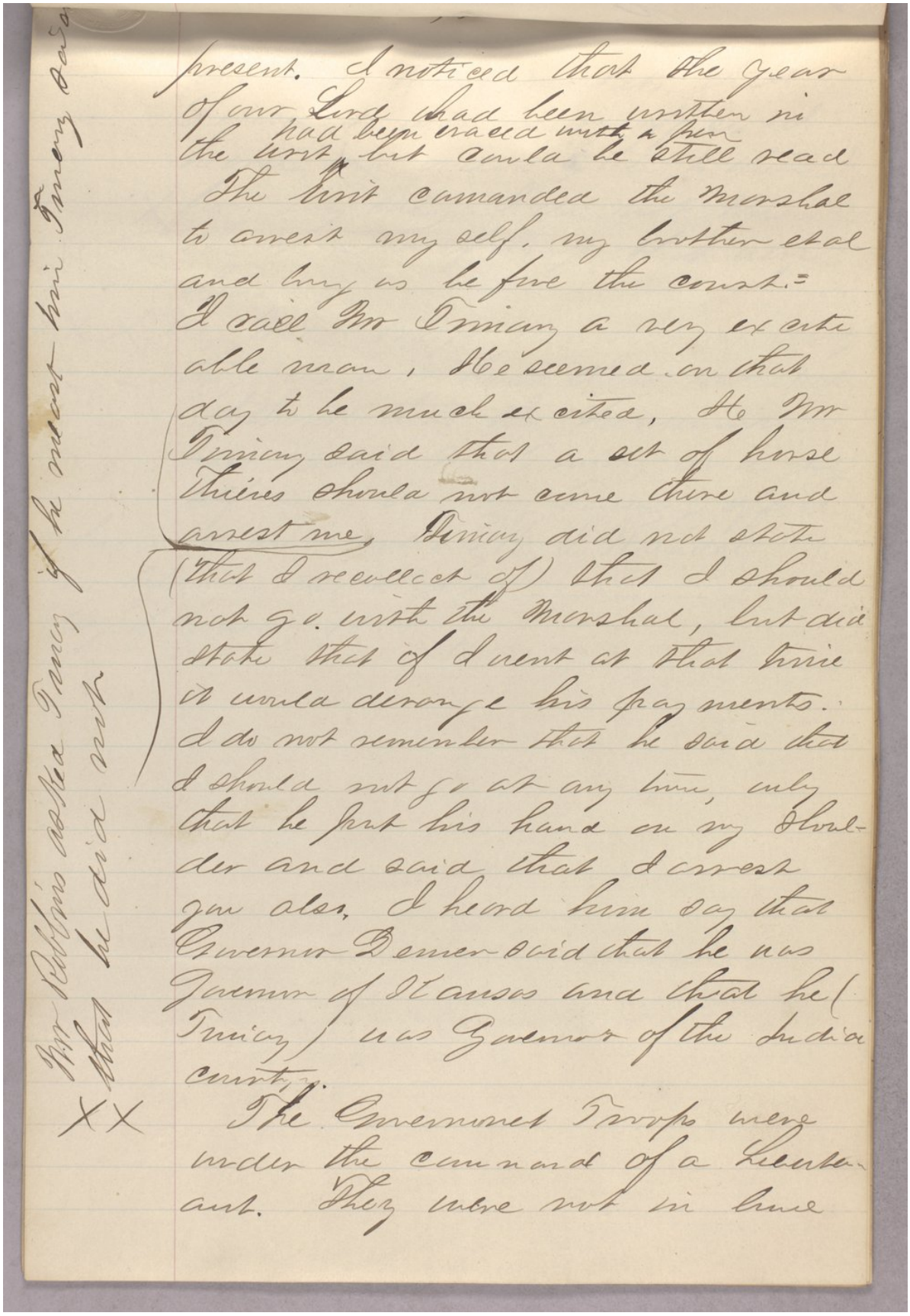
myself
James and, examined the unit
heard no threat by Mr Tmany
& Mr Robbins. Mr Robbins said
that he did not intend to take
me away, this was after we left
the agency, it was either at Em-
eola or on the way here. Wether
Tmany proposed to go security or
not I cannot State, Judge James
said that he would go my bail
for ten thousand dollars. I think
this was in Mr Tmany's presence
This proposition was made to the marshal
The deputy marshal left Joseph Cole
to take charge of me while he was gone.
he was to take charge of me until
Wednesday evening at which time
Robbins was to come back after me
Mr Tmany frequently said that the
the prisoner would be forthcomming, be-
fore the court, he said this in the presence
of the marshal. Mr Robbins return
on Friday evening. I then got ready
and started and went with him
Robbins came with me to Emmeda.
Part of the way from Emmeda
Dept Marshal Mallon came with
me he left me at Lawrence
near

United States versus Francis Tarmony for obstructing officers



I came from near Lawrence to this place without any officer. That evening Robbins came to Kickapoo after I came here I was at large. I came here one day and went away the next morning. Mr Tarmony was with me from the time I left the agency. He was not under any more custody than I was. We started to go to Judge Elmore's from here. and got to Tecumseh. we were in the custody of Dept Marshal Caldwell

X I heard Mr Tarmony say that the courts of the Territory had no jurisdiction in that Reservation and that no officer should serve any writs there. I did not hear him say any thing about using the U S Troops. The troops came to the door of ~~that~~ my office after Mr Tarmony came there. I examined the writ at the time Mr Robbins arrested me. Judge Lames examined it. Judge Lames was formally a Judge of a court in Green County Mo. The fact that there was no seal on the writ was talked over by Judge Lames and myself while Mr Robbins was



present. I noticed that the year of our Lord had been written in the writ had been erased with a pen but could be still read

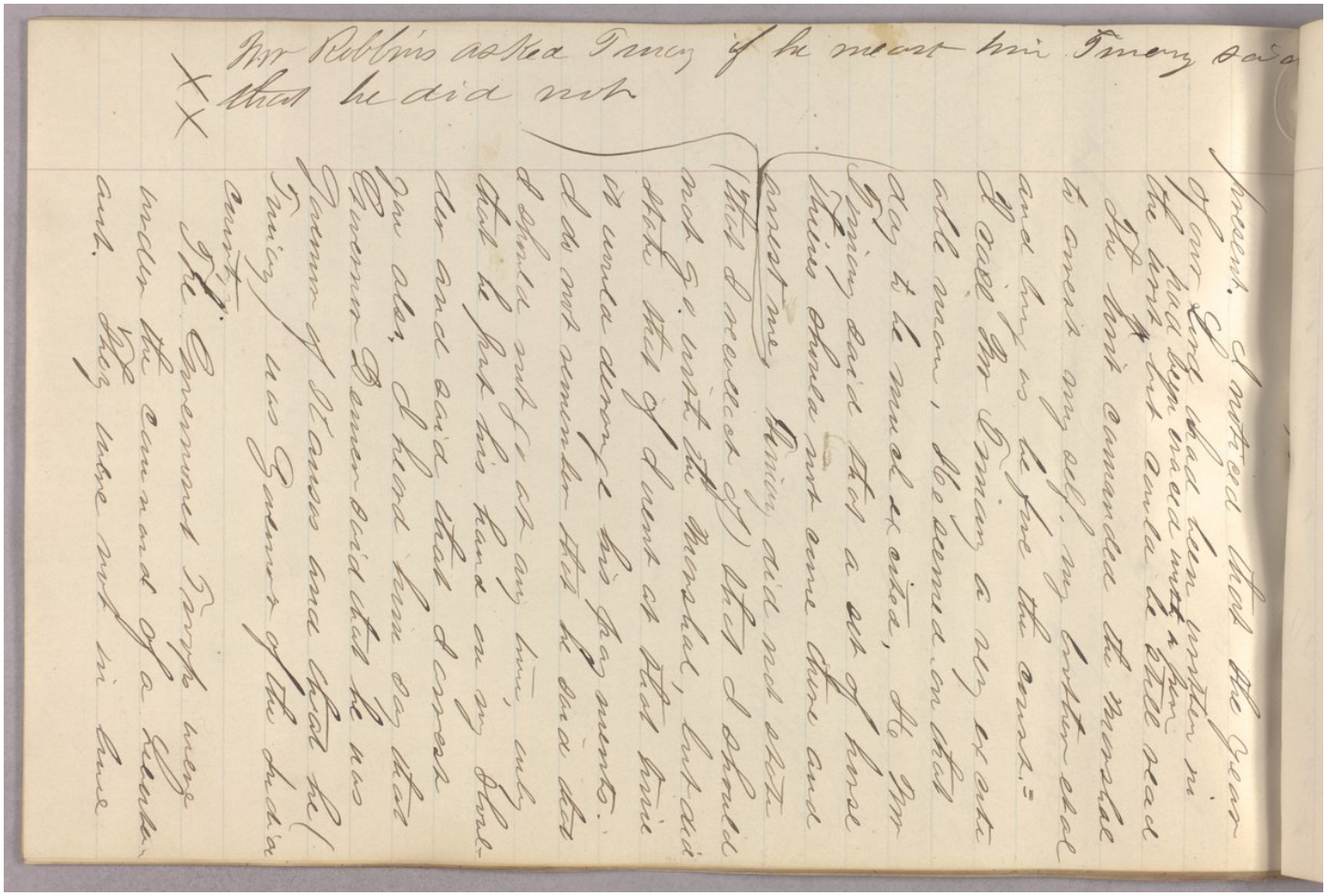
The writ commanded the Marshal to arrest my self, my brother Neal and Levy as before the court. I call Mr Tarmony a very excitable man, He seemed on that day to be much excited, He Mr Tarmony said that a set of horse thieves should not come there and arrest me, Tarmony did not state (that I recollect of) that I should not go with the Marshal, but did state that I went at that time to unla derange his payments. I do not remember that he said that I should not go at any time, only that he put his hand on my shoulder and said that I arrest you also. I heard him say that Governor Denver said that he was Governor of Kansas and that he (Tarmony) was Governor of the Indian country.

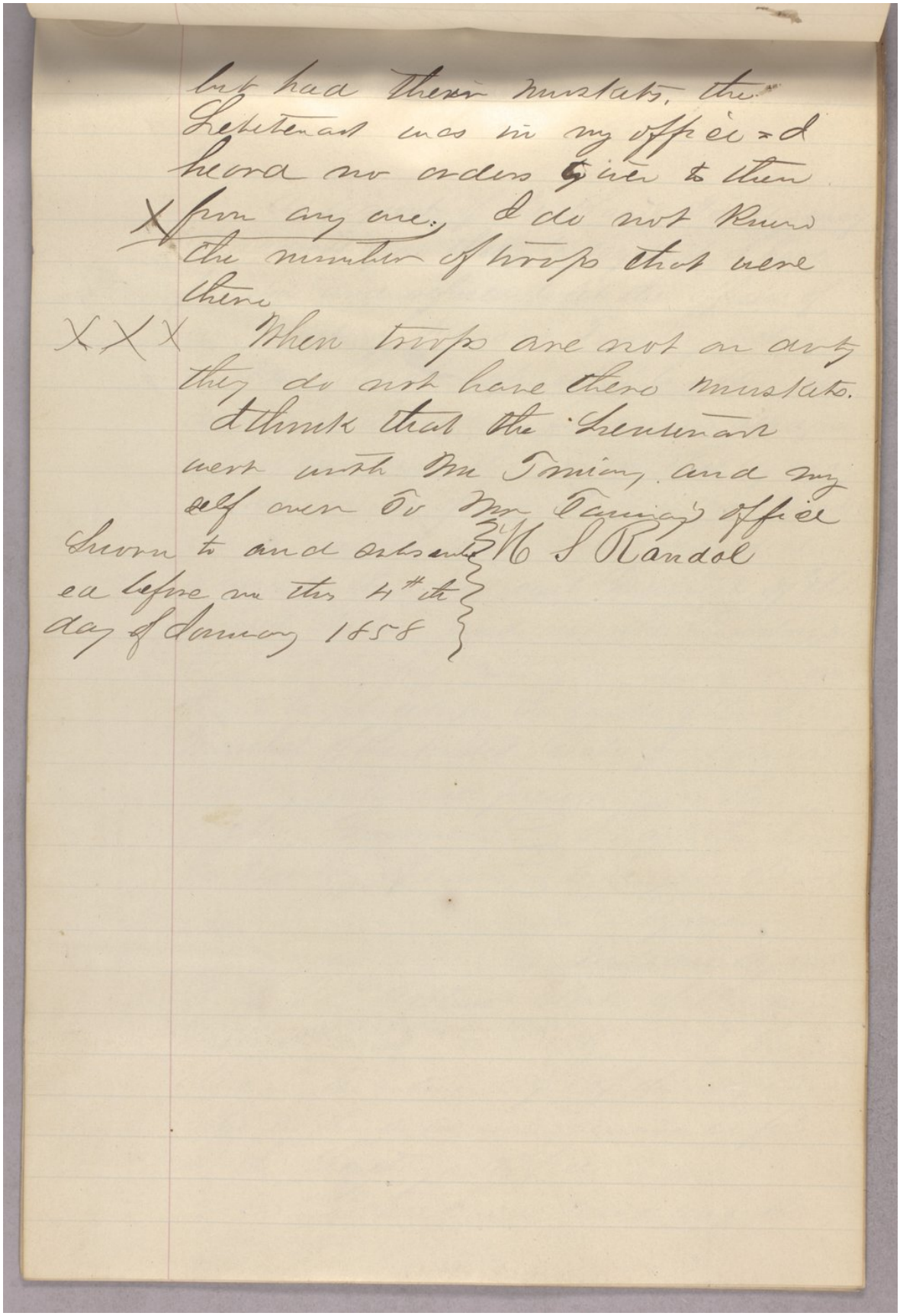
The Government Troops were under the command of a Lieutenant. They were not in line

Mr Tarmony of the arrest— his Tarmony Sa

XX that he said with

United States versus Francis Tarmony for obstructing officers





but had there mustabs. the
Lieutenant was in my office and
heard my orders given to them
X from any one. I do not know
the number of troops that were
there
XXX When troops are not on duty
they do not have there mustabs.
I think that the Lieutenant
went with Mr Tarmony and my
self over to Mr Tarmony's office
Sworn to and subscribed W S Randol
ea before me this 4th th
day of January 1858

United States versus Francis Tarmony for obstructing officers

Sac & Fox Agency
Oct 14th 1858

Sir

As Agent of the Sac & Fox Agency I address you this, to say that I have protested and refused to let the officers of the courts of Kansas Territory acting in their official capacity, to acting under writs in this agency for crimes alleged to have been committed in in this Agency or reservations of which it is composed as I contend that such Jurisdiction belongs to the Judicial District of the United States, and not the Territorial laws, I therefore ask your decision on this to be placed in the hands of the Deputy Marshal of the United States for Kansas Territory who will present you this

Acting Governor of [illegible] I have the honor the Territory of Kansas [illegible] to be your Obt svt

F. Tarmony
Indian Agent

I L McArthur clerk of the U S District court do hereby certify the above to be a true copy of the original letter as the same now remains on file in the Secretary's Office

Witness my hand and the